



LITTLETON

A
MANUALL
OR
ANALECTA
Formerly called the
Compleat Iustice.
the 7th Edition.



COKE.

*Carefully and truly
corrected from y^e errors
misrecited Statutes
absurdities & contrarieties
which have passed in
former Impressions to the
great trouble, if not the
abuse of the Reader.*



CROMPTON



LAMBERT

London Printed
for W. L. and D. P. 1661



DALTON



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THE Compleat Justice. ^{et}

Being an exact and compendious
Collection out of such as have treated
of the Office of Justices of the
Peace, but principally out of
Mr. Lambert, Mr. Crompton,
and Mr. Dalton.

Now amplified and purged from sun-
dry Errors which were in former Im-
pressions thereof.

Whereunto are added
The Resolutions of the Judges of Assises
in the year 1633.

Together with
A Compendious Charge to be given at
the Quarter-Sessions, not in print till
this year 1661.

o

*Legis Præmio, aut pœna, vita moderatur Hu-
mana. Isidor. lib. 5. Etymolog.*

L O N D O N,

Printed by James Flesher for William Lee and
Daniel Pakeman, and are to be sold at
their Shops in Fleetstreet. 1661.

T H E

Compliment Justice

in an excellent and comprehensive
manner, and in a very interesting
and instructive manner, by
the author, who has been
long and successfully engaged in
the study of the law.

The author has been long and
successfully engaged in the study
of the law, and has been
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the study of the law.



To the Reader.

Courteous Reader,



HE great Antiquity
of Justices of Peace in
this Nation speaks not
onely the manifest Utility, but
also the Necessity of that weighty
office, which hath been establi-
shed and enlarged by the grave
wisdome of our Ancestors by ma-
ny succeeding Acts and Ordinan-
ces of Parliament, as you may
perceive by the perusal of this in-
suing Enchiridion, and although
in the former Impressions there-
of, the Reader hath been much
injured by corrupt Editions, yet

To the Reader.

*in this present Tract you may be
securely confident of very few
or no Errors at all, in regard it
bath been revised with mature,
and elaborate diligence, and
therefore now no such cause of
discouragement for the buying
of this beneficial Collection as
formerly; you shall find in it
also much new matter added,
concerning the said Office.*

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Abju-



Abjuration.

THE abjuration of a seditious
 “Sectary ought to be made in
 “open quarter Sessions of the
 “Peace, and there to be en-
 tred of Record in the Rolls of
 “the Sessions by the Clark of the Peace,
 “35 *El.c.1.* & 2. *Lam.615.*

Abjuration of a seditious Sectary made in
 open Qu. Sessions must be certified to the Ju-
 stices of Assise at the next Assises, 35 *El.c.1.*
Lam.590.

Justices of Peace cannot arraign a man
 upon his abjuration for felony, *Lam.551.*

Vide plus Recusants.

Absolve, *Vide* Treason.

Accessory and Principal.

*Who shall be an accessory before
 the fact.*

1. Abetter, Procurer, or Consenter to a
 felony, *Dal.292,293. Cro.41.2. nu.1. Lam.*
286,287,288. Stamf.44.a.

2. Commander of an evil act is accessory
 to the felony proceeding thereof: as if death
 proceed of beating or robbing, *Lamb.286.*
Dal.293. Cro.43.a. nu.34.

B

3. Com.

2 Accessary and Principal.

3. Commander of one felony, whereby another ensueth, is accessary to the second: as, *A.* commandeth *B.* to fire the house of *C.* and thereby many are fired, *Lam.* 286, 287. *Cro.* 43.b. nu.36.

4. Commander of a felony, though it be executed in another fashion, time, and place, or manner then was commanded, *Lam.* 286, 287. *Cro.* 42.a. nu.14. *Dal.* 293.

“ 5. When a Statute ordaineth an act to be
“ treason or felony, which was not so at the
“ common law, & saith not, that the abettors,
“ aiders, comforters, or consenters shall be fe-
“ lons, yet it shall be felony in them, *Dal.* 292,
“ 297. *Lam.* 285.

Who not.

The felony commanded is executed on another person, the commander is not accessary, *Lam.* 287, 288.

The commanded performing more then was commanded, committeth felony, the commander is not accessary, *Lam.* 287.

The commander of one felony to be done to a man, is not accessary to another kind of felony committed against the said party: as, one counselled to poison *A.* giveth it to *A.* and *B.* the counsellor is not accessary to the murder of *B.* *Lam.* 287, 288.

“ Commander or counsellor to a fact coun-
“ termandeth it before it be done, *Lam.* 289.
“ *Dal.* 293. *Cro.* 42.a. nu.16.

The knower of a felony without consenting, *Lam.* 289. But such concealment is fineable, *Cro.* 41.b. nu.8. *Dal.* 294.

One

Accessory and Principal. 3

One not party nor privy who is present at a felony, and doth not disturb it, nor pursue the felon, is fineable, *Lam.289. Dal.292.*

Accessory after the fact.

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainder, *Crom.41.a. nu.1. Dalt.294.*

Receiver or comforter of a felon with an evil intent, *Lam.289. Dal.294.*

Arrester of a felon by hue and cry taketh the goods and letteth him goe, *Lam.290.*

One pursuing a felon for his own goods, taketh money of him not to give evidence against him, whereby he is freed, *Lam.290.*

Receiver or comforter of an accessory, knowing thereof, *Lam.291. Dal.297.*

Receiver of ones brother, knowing him to be a felon, *Lam.291. Dal.295.*

Receiver of an approver, or one attainted or outlawed of felony, knowing thereof, *Lam.293.*

To harbour a felon attainted in the same County, *Cro.43.a. nu.31. Dal.294.*

But *Lamb.293.* holdeth it reasonable that he first have knowledge of such a record.

Receiver of stolen goods, knowing them to be stolen, *Cro.41.b. nu.3.* many authorities remembered: but *42.a. nu.17.* he saith, that he must receive the felon also. *Vide Cro.496. Vide Crom.42.b. nu.23. & 43.b. nu.37. Dalt.295.*

4 Accessary and Principal.

Who not.

A sutor by word or writing for the deliverance of a felon, knowing thereof, *Lamb.* 289, 290. *Dal.* 294.

Pursuer of a felon for his own goods, taketh them again, and letteth him go, *Lamb.* 290. *Dal.* 296.

Reliever or receiver of one bailed for felony, *Lam.* 290. *Cro.* 42.b. nu. 25. *Dal.* 294.

Buyer of stolen goods, knowing thereof, *Lamb.* 291. unless he receive the felon, *Crom.* 42.a. nu. 17. *Dal.* 295.

The wife receiving the husband, knowing him to be a felon, *Lam.* 291, 292. *Dal.* 295.

Receiver of the striker of the stroke, after the stroke, and before the death, *Lam.* 292.

After acquital as principal, one may be arraigned as accessary after the fact, but not before the fact, *Lamb.* 292, 557. *Crom.* 42.b. nu. 18.

One may be accessary to an accessary: as, if one feloniously receive or comfort an accessary, *Dal.* 297. *Lam.* 291. *Cro.* 42.b. nu. 24.

Who shall be said a Principal.

Those of the society of a felon, and present at the fact, though not actors, *Stamf.* 40. a. *Cro.* 22.a. nu. 10, 15. *Dal.* 291.

An abetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statute, 3 *H.7. cap. 2*, *Lamb.* 285.

Accessary in one County to a felony done in another County, may be indicted where he

Additions.

5

he becometh accessory, 2 & 3 Ed. 6. cap. 24. Dal. 297.

It is no good indictment against an accessory, to say, that he received the goods, without saying he received the felon, Lamb. 500. 291.

Acquital, *vide* Enditements.

Additions.

In every indictment or presentment where outlawry lieth, the estate of degree or mystery, the county, town, hamlet, or place where the indicted dwelleth, are to be added, 1 H. 5. ca. 5. Lam. 488.

What shall be a good addition of degree or estate.

Duke, Marquess, Earl, Vicount, Archbishop, Bishop, Baron, Knight, Serjeant at law, Esquire, Gentleman, Alderman, Widow, single Woman, Dean, Arch-deacon, Parson, Doctor, Clerk, Parish-clark, Lam. 488, 489, 490.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertain, as Farmer, Servant, Butler, Chamberlain, Lam. 489. Cro. 109. 3. 6. nu. 8.

What shall be a good addition of mystery.

Chopchurch, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Lighterman,

man, Waterman, Labourer, *Lam.* 489.

What not.

That which is no mystery nor degree, as Citizen; nor any unlawful trade, as Extortioner, Maintainour, Vagabond, Heretick, Dicer, Carder, &c. *Lam.* 489.

Addition of degree or mystery must be as the party then is. But addition of the place may be such whereof he was, *Lam.* 489, 490. *Additions Br.* 41.

Addition of degree and mystery must be knit to the proper person, *Lam.* 489.

The Statute of the 1 H. 5. cap. 5. of additions, doth not extend to informations, *Lamb.* 510.

What shall be a good addition of place.

Either of the Town or Parish, if they be both of one name, *Lam.* 490.

Of the Town onely, where there be two Towns in one Parish, *Lamb.* 490.

Either of the Town or Hamlet, if there be two Hamlets in one Town, *Lam.* 490.

Of the Town, if the person be of a place known within the Town, *Lam. ibid.*

Addition must comprehend the County, Town, or Hamlet, whereof the party is or was, *Lam. ibid.*

What not.

Of the place where he is Parson, without naming the place of his abode, *Lam. ibid.*

Affray

Affray and Affrayers. 7

An affray may be without word or blow :
as, to be armed with armour or weapon not
usually born, *Lam. 126.*

“ It is no affray properly unless there be
“ some weapon drawn, or stroke given, or
“ offered to be given, or some such attempt,
“ *Dal. 34.*

Constable or other Officer may lay no
hands on any intending to make an affray,
till weapon drawn, or offer of blow, *Dal. 34.*
Lam. 132. Cro. 146. a.

“ An affray is in a house, and the doors
“ are shut, the Constable may break into the
“ house to see the peace kept, *Dal. 34.*

“ If the Affrayers flie into another house,
“ into a Franchise or other Countrey, the
“ Constable upon fresh suit may pursue
“ them, but cannot meddle out of the Coun-
“ ty, but as a private man, *Dal. 34.*

Affrayer may be commanded by the Con-
stable or other officer to avoid upon pain of
imprisonment : And if the affray be great,
they may make proclamation, and command
the parties to prison for a small time, whom
he must deliver without fine, *Lamb. 132.*
Dal. 34.

“ After an affray, a Justice of Peace may
“ commit the offenders till they find sureties
“ (if the affray were in his presence;) if out
“ of his presence, he may send his Warrant,
“ and commit them till they do find sureties.
Vide Surety of the peace.

“ If a man be dangerously hurt, and the
“ wound mortal, although the Justice of

8 Affray and Affrayers.

“Peace may bail the offender, yet it is the
“safest way to commit him till there appear
“some hope of recovery, *Dal. 35.*

“If an assault or affray be made upon a
“Justice or Constable, they may defend
“themselves. The Justice may cause them to
“be arrested, the Constable may commit
“them to the Stocks, and after carry them
“before a Justice of Peace, *Dal. 35. Vide*
“Peace.

“An affray is in a corporate Town
“ (which hath Justices within it self) while
“ the Sessions be held there : the Justices of
“ Peace shall not meddle there ; but it is o-
“ therwise at the Assises, *Cro. 146.b.*

Every private man present at an affray, as-
sault, or battery, may part them, stay them
that come to the affray with weapon, stay
the affrayers till the heat be over, and then
deliver them to the Constable ; but may not
commit them, unless one of the affrayers
be in peril of death. And if he flie into
a house, upon Hue and Cry break open the
house, and take him, *Dal. 33. Lamb. 131. Cro.*
146.a. Vide plus Constable.

Agnus Dei, Crosses, Beads, &c.

If any person, to whom any of these, or a-
ny other superstitious things from the See
of Rome or authority thereof be offered, do
disclose the name, dwelling, or place of re-
sort of such offerer or deliverer to any Justice
of Peace of the same Shire, the same Justice
must within fourteen daies next after declare
the

Alehouses.

9

the same to some one of the Privy Council, on pain of Premunire, 13. *El. cap. 2. Dal. 105. Vide plus* Treason, Misprision, & Premunire.

Alehouses.

Two Justices, one being of the Quorum, may licence one to keep a common Alehouse, taking bond with good surety for good rule to be kept in his house, 5 *Ed. 6. cap. 25.*

“ And an Alehouse-keeper put down by two
“ such, cannot be allowed by any other two,
“ but in open Sessions, *Dal. 29.*

Twelve pence is given to the two Justices of Peace, for taking a recognizance of him that is allowed to keep a common Alehouse, 5 *Ed. 6. cap. 25, Lam. 370.* Condition of a recognizance for an Alehouse, *Lam. 354.*

He that keepeth an Alehouse of his own authority, without licence of two Justices, one being of the Quorum, or after prohibition of two such Justices, may by two such Justices be committed to prison for three daies without bail, and till he be bound with two sureties to keep none after, *Dal. 29. Lam. 354.*

“ *Vide Stat. 3 Car. 3.* which alloweth selling
“ of beer or ale in Fairs (though unlicensed:)
“ As also the punishment of persons unli-
“ censed.

Information of the offence and recognizance taken by two Justices, one being of the Quorum, of an Alehouse kept against the Statute of 5 *Ed. 6. ca. 25.* and certified by them to the Sessions, is a sufficient conviction

B 5

without

without further trial at the Sessions : and they may assess the fine of 20 shillings without making process against the offender, *Lam. 572.*

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby he hath forfeited his recognizance, they may award process against him, to shew why he should not forfeit his recognizance. Quære what process, *Lam. 524, 529.*

Enquiry whether Alehouse-keepers have forfeited their recognizance, ought to be at the Quarter Sessions, *5 Ed. 6. 25.*

Fines imposed by the Stat. of *5 Ed. 6. ca. 25.* concerning Alehouses cannot be altered by the Justices of Peace, *5 Ed. 6. c. 25. Lam. 578.*

Justices of Peace must certify the recognizance taken for Alehouses at the next Quarter Sessions after they are taken, or lose *5 Marks, 5 Ed. 6. ca. 25.*

Any directly or indirectly selling Ale or Beer unto any Alehouse-keeper not licensed, more then for his necessary provision for his household, shall lose after the rate of 6 shillings 8 pence for every barrel. For the levy and disposal of the penalty, see *Victuals, 4 Fac. 4.*

Alehouse-keeper or Inne-keeper suffering any tipling contrary to the *1 Fac. ca. 9. 4 Fac. cap. 5. 7 Fac. cap. 10. 21 Fac. cap. 7.* forfeiteth 10 shillings, and every such tipler 3 shillings 4 pence : for not ability of payment, the Alehouse-keepers, &c. to be committed to the Gaol till the penalty be payed, which penalty

is to be paid within 6 daies, or the distress to be sold, 1 *Fac. cap. 9.* the tipler to the Stocks for four hours, 4 *Fac. cap. 5. Dalt. 28. 1 Car. 4.*

Justice of Peace hath power in those cases to minister an oath to witnesses, wherein oath of one witness is sufficient, 1 *Car. cap. 4. 1 Fac. 9. 21 Fac. 7.*

The Constables and Churchwardens neglecting to levie, or to certifie the cause thereof by 20 daies to the Justice that granted the distress, do forfeit 40 shill. in default thereof to be sent to the Gaol till payment be made, 1 *Fac. cap. 9. Dal. 28. Cro. 78. a.*

Alehouse-keepers and Inne-keepers ought to lodge travellers. *Quære* how he is compellable, and see the opinion of Sir James Ley chief Justice at Lent Assises, 1622. *Dal. 28.*

“ No Inne-holder, Alehouse-keeper, or other Victualler shall be compelled to sell victuals to others, or to have lodging, except the party first pay ready mony, *Dal. 28. Cok. lib. 9. fol. 87. b. Breck, action sur le case 76.*

“ Selling of less then a full Ale-quart of best Beer or Ale for 1 d. and of 2 quarts of small for 1 d. upon oath of one witness, the penalty is 20 shill. 1 *Fac. cap. 9. 4 Fac. cap. 5. 21 Fac. cap. 7. Dal. 26.*

“ Any tippling in any Inne, Alehouse, or Victualling-house, wheresoever his habitation be, forfeiteth 3 shillings 4 pen. 21 *Fac. cap. 7. Dal. 28.*

“ A feme

“ A feme covert keepeth an Alehouse, and
 “ selleth Ale, &c. without license, contrary
 “ to her husbands will, the husband is pu-
 “ nishable, *Dal.* 30.

“ The voluntary confession before one Ju-
 “ stice of Peace of any offender against the
 “ Stat. of 1 *Fac.* c. 9. or 4 *Fac.* c. 5. is sufficient
 “ to convince the party offending. And after
 “ confession, the oath of the party confessing
 “ is proof against any other offending at the
 “ same time, *Dal.* 26. 21 *Fac.* c. 7.

“ Alehouse-keepers are disabled to keep
 “ Alehouse for three years after ;

1. If they suffer tipling, *Dal.* 31.

2. If they sell not a quart of the best, and
 2 quarts of small Beer or Ale for a peny, *Ibid.*

3. If they be convicted by Indictment at
 the Assises, Sessions, or Leet, for being drunk,
 4 *Fac.* c. 5. or before one Justice upon oath of
 one witness, 21 *Fac.* c. 7.

4. Continue drinking in another Alehouse,
 7 *Fac.* 10. 4 *Fac.* 5. *Dal.* 32. *Vide plus* Victu-
 allers confession.

In all these cases, if he be licensed again
 within three years, such licence is void, and
 he to be punished as victualling without li-
 cence, *Dal.* 32.

If any unlicensed Alehouse-keepers be con-
 victed by the view of any Just. of the Peace,
 confession of the offender, or oath of two wit-
 nesses, he loseth 20 shil. to the use of the poor
 of the Parish, to be levied by way of distress
 by warrant from the Justice of Peace convi-
 cting, and within three daies to be sold, 3 *Car.*
cap. 38. Where

Where there is no sufficient distress or non-payment, within six daies after conviction, the offender is to be openly whipped as the Justice of Peace shall limit, 3 *Car. cap. 3.*

The Officer refusing or neglecting to execute the Justice his precept, is to be committed to the Gaol, until he do or procure the offender to be whipped, or pay 40 shillings to the use of the poor of the said Parish, 3 *Car. cap. 3.*

The second offence is commitment to the house of Correction for a moneth, *Ibid.*

The third offence is to remain in the house of Correction till he be delivered at the generall Sessions, *Ibid.*

He that is punished by the Act 3 *Car. 3.* not to be punished by the Statute 5 *Ed. 6. cap. 25.*
Q' è contr.

Aliàs dictus, *vide* Endictment.

Alien and his trial, *vide* Trial.

Allegeance, *vide* Supremacy.

Amerciaments.

The owner of a beast, knowing it to be harmful, and not restraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King, *Lamb. 239. Cro. 24. nu. 45. Dal. 238.*

Offenders in gathering more amerciaments then are in their lawful estreats, to be convicted by two Justices, one to be of the Quo-
rum,

14 Amerciaments.

rum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffs; 11 H. 7. c. 15.

Estreats of amerciaments must be by Indenture between the two Justices (appointed for oversight of Sheriffs books) and the Sheriff or Under-Sheriff under their seals, or else the Sheriff to lose 40 shill. 11 H. 7. cap. 15.

No amerciament for default of appearance, when the Sessions are not summoned by precept, *Lam.* 381. or when the summons is at one place, and kept at another, *Ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them, *Lam.* 384.

Justices of Peace cannot amerce their fellow for absence from the Sessions; but a Justice of Assize may amerce a Justice of Peace for his absence from the Gaol-delivery, *Lam.* 385.

Clerk of the Peace, Coronors, Sheriffs, Bailiffs of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions, *Lam.* 395.

Amerciaments of Jurors for concealment. *Vide Jurors, Lam.* 400, 401. 3 H. 7. cap. 1.

Appearance.

Recognizance taken for the Peace against all the Kings people, and to appear at the next Sessions by Superfedeas out of the Chancery, testifying surerly found there against all the Kings people for ever, will discharge.

Appeal.

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charge the appearance of the next Quarter Sessions. Otherwise it is, if it be but until a day certain, *Lam. 112. Dal. 173.*

Who shall be amerced for default of appearance, and who not, *vide Amerciaments. Release.*

Appeachment, *vide Approvers.*

Appeal.

Justices of Peace can take no appeal of any felony, *Lam. 550. Stamf. 65. 2. quare tamen.*

Appeal of robbery, *vide Attainder.*

Apprentices.

One thought fit to be bound as an Apprentice, upon complaint made, and refusing to be bound, shall be committed till he will be bound, *5 El. 4. Dal. 78.*

Upon complaint of an apprentice, one Justice may take order betwixt his master and him, and for want of conformity in the master, may bind him to appear at the Quarter Sessions, *Dal. 78.* and to be discharged by four Justices. If default be in the apprentice, it seemeth one Justice may send him to the house of Correction, *Dal. 78.*

Assent of two Justices is sufficient to the Churchwardens or Overseers, or the most of them, to bind as apprentices the sons of poor parents, not able to keep and maintain them, till 24 years of age, or their daughters till 21 years of age, *39 El. ca. 3. 43 El. ca. 2. Dal.*

*Del. 83. Lam. 331. 21 Jac. c. 28. continued by
1 Jac. c. 25.*

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by the Corporation, and in Towns not corporate by the Parson or Vicar, Constable, Church-warden, and Overseers for the time being, or most part of them, the same to be according to the will of the Giver: And any of the disposers forbearing and refusing to dispose of the money, whereby it is not disposed, shall lose 3 pounds 6 shillings 8 pen. one moiety to the poor of the Parish, the other to the Informer, 7 *Jac. ca. 3.*

Disposers of such money given for apprentices, are to take bond with two sureties of such master or mistress, for such money as they shall so receive, for the repaiment thereof at the end of seven years, or three months after, 7 *Jac. cap. 3.* Or if the apprentice die within 7 years, then to repay the money within one year after such master or mistress death, 7 *Jac. ca. 3.*

The master or mistress dying within seven years, the disposers are with the said money to put out the said apprentice to some of the said trade, to serve out the residue of his 5 years, 7 *Jac. ca. 3.*

Money given for putting forth apprentices, is to be disposed within three months after the receipt, *ibid.*

None above 15 years old are to be placed by the disposers, and those to be of the poorer

Apprentices. 17

poorer sort ; and for want of such they may chuse others of the Parish next adjoining, *Ibid.*

Disposers of mony for apprentices are to account before two Justices next adjoining yearly in Easter week, or within a moneth after : and within ten daies after such accompt made, must deliver all such mony and bonds remaining in their hands, to such as succeed in their rooms, *Ibid.*

He is no apprentice, if he be not retained by Indenture, and by the name of an apprentice expressly, *Cro. 185.b.*

Breakers of trust for disposing mony given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within 3 moneths, and the party grieved by an act of the Commissioners is to be relieved upon his Bill in Chancery, 7 Jac. cap. 3.

Certificate to the head-officer of City or Borough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier, may dispend 40 shill. freehold, must be under the hands and seals of three Justices where the land lieth, 5 El.c.4.

Apprentice is to be discharged by four Justices in open Sessions, *Dal. 79.*

The discharge of an apprentice is to be inrolled by the Clark of the Peace, 5 El.c.4. *Vide plus* Labourers.

A master putteth his apprentice into apparel, he cannot take it away, though he
part

18 Approvers or Appeachers.

part with his apprentice, *Dal.96.*

Every householder having half a ploughland in tillage may take an apprentice betwixt the age of 10 and 18. to serve in husbandry, which must be by Indenture, 5 *Elix. cap.4.*

Approvers or Appeachers.

Gaoler, keeper, or under-keeper by pain compelleth his prisoner to become an appeacher of others, it is felony, 14 *E.3. cap.10.*

Justices of Peace can take no appeal of an approver, *Lam.550. Stamf.144.2. Dal.320.*

One felon accuseth another before the Justices of Peace; they may take his confession and reprieve him, and so proceed against the other, *Lam.551.*

Archery.

“ Justices of Assise, Gaol-delivery, and of
“ the Peace, & Stewards of Leets have power
“ to enquire, hear, and determine of the Sta.
“ 33 *H.8.c.9.* & also by their discretion ex-
“ amine all persons lacking and not having
“ bows, shafts and arrows, according to the
“ form of the said Statute, *viz.* being under
“ 60 years, and have not in his house bow
“ and arrows, or have not used shooting. And
“ every man-child between 7 and 17 years of
“ age, not having a bow and two shafts, and
“ above 17 years, four shafts, he loseth for eve-
“ ry moneth 6 shill. 8 pen. *Lam.481. 33 H.*
“ *8. cap.9.*

Armour.

Armour.

Any (except the Kings Officers and their company doing their service) riding or going armed, or bringing force in affray of the people, are to be imprisoned, and lose their armour, 2 *E.3. cap.3. Dal.35. Cro.76.a.*

Justices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon enquiry by the Judges of Assise, are to be by them punished, 2 *Ed.3. cap.3.*

The counterpain of the Indenture of armour to be kept by the Clark of the Peace, 4 & 5 *Ph. & Ma. cap.2.*

The Statute 4 & 5 *Ph. & Ma.* concerning keeping of horses and armour, with the penalties thereof, are repealed, 1 *Jac.c.25.*

Armour and Munition of a Recusant convicted, being in his own possession, or at his dispose, other then such as shall be thought meet for the defence of his person and house, by warrant of four Justices at the Quarter Sessions, are to be seised and kept at such place as the four Justices at the Sessions shall appoint, at the cost of the owners; and they, concealing or disturbing the delivery of it, lose the armour and munition, and by warrant from any Justice of Peace, to be imprisoned 3 moneths without bail, 3 *Jac.c.5.* Recusant having his armour seised, is to be charged with such armour and horse, as he and others of his Majesties Subjects shall be commanded to serve with at musters, 3 *Jac.ca.5.*

Any

Any Justice of Peace may arrest any (except the Kings officers, and such as doe him service) that go armed, and bind them to the peace, or good behaviour, *Cro. 76. a. Dal. 30. Lam. of Const. 13.*

A Justice of Peace may cause weapons to be taken from prisoners brought before him, *Dal. 36.*

No servant in husbandry, artificer, victualler, or labourer, shall wear sword or dagger, *12 R. 2. c. 6. Dal. 36. Cro. 76. b.*

Arrests.

An Arrest is a certain restraint of a mans person, depriving it of its own will and liberty, and binding it to become obedient to the will of the law, *Dal. 343. La. 93. Cro. 38. a. nu. 1.*

All lay persons under the degree of a Baron or Peer of the Realm, are subject to an arrest, *Lam. 93. Dal. 343.*

Ecclesiastical persons not attendant upon divine Service, may be arrested for the peace, *Lam. ibid. Dal. 166.*

Constable or Justice of Peace coming to arrest an affraier, if he flie into another house, they may in fresh suit break open the door, and take him: So if he flie into another County, *Lam. 134. Dal. 34.*

All that come to the Sessions for publick service, or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon original process, *Lam. 402.*

Bailiff

Bailiff taking above 4 pence for any arrest shall forfeit 40 li. 23 H.6. ca.10.

The officer ought to require the party to come and finde surety of the peace, before he arrest him, by the opinion of 5 Ed.4. 31. Lam.90. Dal.166.

If one required by the officer upon warrant to finde surety of the peace, refuse, the officer by virtue of his warrant may convey him to prison, Lam.92. Dal.171.

"In all criminal causes where one incur-
" reth loss of member, or of life, every man
" may arrest him, whether he have warrant or
" not, Dal.344. But where a private man ar-
" resteth any in the cases aforesaid, he ought
" to deliver him to the Constable, or some
" officer, Dal.348.

"When a felony is committed, 1.any man
" that suspects another may arrest him: 2.or if
" there be common fame that he committed
" the felony: 3.or if he be prosecuted with hue
" and cry: 4. or if he be in company of the
" offenders: 5. or he apparantly go about to
" commit a felony, Dal.345. vide Cro.99.b.

"A man is slain, or a felony committed,
" and an innocent party is arrested for the
" same; he cannot be delivered but by order of
" law, Cro.40.b.nu.20. Dal.279,304. Lam.233.

A Constable taking an affraier, may not imprison him in his house, but in the Stocks, Lam.133. Vide Riot, Sheriff, Prison.

Arraignment.

Arraignment is commonly a compulsory coming

coming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty, *Lam.* 546.

One coming in freely, and indicted of an inferiour offence, may be arraigned, *Lam.* 547.

One arraigned of felony, if his case will serve, may plead a justification or matter in law, *Lam.* 547. And the Court shall assign him counsel, *Cro.* 110. *nu.* 5.

“ He that is arraigned of felony shall have
“ leave to bring him into the Court who sold
“ the thing to him, and the Court shall assign
“ him counsel, *Cro.* 110. *a.* *nu.* 3.

Artificers, *vide* Labourers.

Affault.

Affault cannot be made without the offer of some hurtful blow, or at least of some fearful speech, *Lamb.* 126.

To rebuke a collector with foul words, so that he depart with fear, without doing his office, was taken for an assault, *Lamb.* *ib.*

To strike at a man, although he were neither hurt nor hit with the blow, is an assault, *Lamb.* *ibidem.*

Maker of an assault, battery, or other trespass upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a year,

Affault.

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year, and any other corporal punishment saving life and member, 5 *Eliz. cap. 4.* & 5. *Dal. 80. Cro. 84 a.*

If another assault me, if I may escape with my life, it is not lawful for me to beat the other, *Dal. 210.*

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justify the beating of the other, *Dal. 210.* Yet by opinion of *Elyot, 12 H. 8. fol. 2. b.* it is not lawful, except there be such peril as another is like to perish if there be no help, *Dal. 184. 210.*

A man taketh away my goods which are in my possession, I may take them again with force, *Cro. 65. b. nu. 60, 61. & 137. a. Dal. 181.* But I must first lay my hands on him, and disturb him, and if he will not leave, then I may beat him, rather then he shall have my goods, *Dal. ibid.*

Assembly unlawful, *vide* Unlawful assembly.

Affize of Bread and Beer.

Any Brewer, or Baker, or Tipler, breaking the Affize of Bread and Ale, to be fined, 13 *R. 2. cap. 8. Lamb. 459.*

Any officer taking fine for breach of the Affize of Bread and Ale, where there ought to be a corporal punishment, is to be fined, 13 *R. 2. cap. 8. Lamb. 459.*

Attainder,

One attainted of felony may be arraigned for treason committed before or after the attainder, *Lam.* 557, 558.

One attainted upon an appeal of robbery, may be arraigned upon an appeal of robbery at another's suit, *Lam.* 558.

One attainted of felony, by standing mute, may after be arraigned of another felony, *Lam.* 558.

One attainted of felony cannot after be arraigned for another felony, so long as the first is unpardoned, unless it be in the cases before, *Lam.* 557.

After the attainder, the felons grant of goods or lands bindeth all persons, except the Land-lord, to whom they escheat, *Dal.* 303.

Indictment is, when an offence is found by the great Inquest, or other Jury of inquiry.

Conviction is, when the offender is found guilty by a second Jury, having put himself to trial.

Attainder is, when after such conviction judgement is given against the offender, *Dal.* 304.

A wait-lying, *vid.* Way-laying.

Averrements.

No man shall be received to averre or speak against a record. *Lam.* 63.

Badgers

Badgers and Drovers. 25

Badgers and Drovers.

Licence to Badgers and Drovers, and Loaders of corn, must be in open Sessions, and there registred and kept by the Clark of the Peace, 5 *El.c.12. Lam.610.*

Offences against the statute of Badgers and Drovers may be enquired of as well by examination of witnesses, as by presentment, 5 *El.cap.12.*

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Justices of Peace, 5 *El.cap.12.*

“ Clark of the Peace must make and write
“ all Licences made to Badgers, Loaders, and
“ Drovers, and keep a book to register the
“ same, and the recognizance taken before the
“ Justices of Peace, which recognizance must
“ be [That they shall not do any thing contrary
“ to the statute 5 *Ed.6.c.14. provided against*
“ *forestallors,*] and therein write the names
“ and surnames and places of the licensed,
“ with a brief entry of the licence, day, time,
“ and place where it was granted, and bring
“ the same to every Sessions, taking for the
“ licence xii d. for the recognizance viii d. and
“ for registering iv d. 5 *El.cap.12.*

Bailment.

Bailment, Mainprise, or replevin, is the
saying or delivering a man out of prison be-
fore

fore he hath satisfied the law; so by finding sureties to answer, and to be justified by the law, *Lam.* 340. *Dal.* 312.

He that is bailed, is delivered into his sureties hands to be kept, *Cro.* 152. b. nu. 6. *Stam.* 65. a. *Dal.* 312.

If the sureties doubt the escape of the prisoner bailed, a Justice of Peace upon prayer may discharge the sureties, and commit the party to prison, *Dal.* 312. *Cro.* 153. a. nu. 13. & 157. a.

A Justice of Peace may cause the bailed to find better sureties, *Cro.* 152. b. nu. 4. *Dal.* 312.

It is requisite to take two Subsidy-men for bail, especially if it be for felony, or suspicion thereof, *Dal.* 313.

To detain a prisoner that is bailable, is fineable, *Dal.* 313.

To bail one not bailable, is a negligent escape, *Dal.* 313.

A Justice of Peace bailing contrary to the law, or not certifying the bail and examination of the felon, is fineable by the Justices of Gaol-delivery, *Lam.* 345. 1 & 2 P. & M. c. 13. *Cro.* 167. b. *Dal.* 313.

Where one is bailable, he must offer sureties, *Dal.* 313.

For what offences a man is not bailable by a Justice of Peace by the statute of W. 1. 3 Ed. 1. 15. Cro. 156. a. Lam. 345.

1 Abjured the Realm, *Dal.* 316.

2. Approver or appellour, *ibid.*
3. Appealed by an approver, *ibid.*
4. Burning a house feloniously, *ibid.*
5. Excommunication taken at the Bishops request, *ibid.*
6. Felon taken with the manner, *ibid.*
7. A known thief and defamed, *ibid.*
8. Outlawed, *ibid.*
9. Prison-breaker, *ibid.*
10. Traitor to the King himself, *ibid.*
11. Falsifier of the Kings money, *Dal. 317.*
12. Counterfeiter of the seal, *ibid.*
13. Attainted or convicted of felony, *ib.*
14. Accessary to two felonies, if one principal be attainted, *Dal. 319.*
15. Death of man, if he be principal, *ib.*
16. Taken upon process of rebellion issuing out of Chancery or Star-chamber, *Lam. 347. Dal. 320.*
17. Arrested by Process, Writ, Bill, or Warrant, in an action personal, *ibid.*
18. Persons convicted of felony, praying Clergy and reprieved, *Cro. 154. a. nu. 2. Dal. 318.*

For what other offences a man is notailable by a Justice of Peace.

A Justice of Peace is not to bail but in causes which he may hear and determine, *Lamb. 347. Dal. 320.*

Murder, or any other homicide, *Dal. 315.*

Confessing the fault of manslaughter, *ibid. Lamb. 34.*

Taken in the manner for killing, *ibid.*

Known to have killed a man, *ibid.*

By the King or his privy Councel, *Dal.* 316.

By the absolute, not ordinary command of the Kings Justices, *ibid.*

For trespasses in the forrest, *West. 1. cap. 15.*

Confessing the felony whereof he is accused, *Cro. 152. b.*

Imprisoned for surety of the peace, 23 *H. 6. c. 10. Lamb. 346.*

Special commandement of any Justice, 23 *Hen. 6. cap. 10. Lamb. ibid.*

Where Bailment is taken away by Statute, vide *Lam. 349. Dal. 320.*

*For what offences a man is
bailable.*

Taken for light suspicion, *Dal. 317.*

Indicted of petty larceny, not being formerly guilty of another, *ibid.*

Charged, 1. With the receipt of thieves, of felons, *Dal. 318.*

2. Of commandment, force or aid in felony done, *ibid.*

3. With the trespass that toucheth not loss of life or member, *Dal. 319. West. 1. 15.* (if not prohibited by some later Statute) appealed by an Approver, being no common thief, not defamed after the death of the Approver, *Dal. 320.*

Indicted of manslaughter, and acquitted, *Lam. 347.*

Acquitted of murder or manslaughter at the

the Kings suit,ailable during the year, 3 H. 7. cap. 1. Lam. 347.

Imprisoned by Process out of the Sessions upon penal laws not forbidding bail,ailable out of the Sessions by two Justices, one being of the Quorum, Lam. 348. Dal. 319.

Accused of homicides which are not felony.

Accessory to felonies, Dal. 318.

If they be found of good fame, until the principal be convicted or attainted : but after the principal is attainted, he is notailable, except he plead not guilty, or other plea, Dal. *ibid.* & 321.

Principal in burglary, Dal. *ibid.*

Principal in an indictment of robbery, Dal. *ibid.*

Principal in an appeal of robbery, Dal. *ib.*

Attached by Sessions Process upon indictment of trespass may be bailed by one Justice of Peace to appear at the day to answer the indictment, and may make his Superseas, *de cap. indict.* and so of the exigent, Dal. 319.

In every bailment which must be by two Justices, one of them being of the Quorum, the Just. must be present together at the time of bailment, who before bail taken must examine the prisoners, & receive the information of them that bring them : all which with the bailment they must put in writing, signed or subscribed with their own hands, and certified at the next Gaol-delivery to be holden in the County, 1 & 2 Ph. & M. ca. 13. Dal. 314.

The said Justices have authority to bind all persons that can give evidence, to appear the

next Gaol-delivery to give evidence against the party at the time of his trial, *Dal.* 303.

Some statutes not onely take bail from the offenders thereof upon their solemn conviction after judgement, but also upon the record of one or two Justices, or by examination or proof of witnesses, or other such private trial had before them, *Lam.* 349. For the form of bailment, *Lam.* 252. The form of the liberate, *Dal.* 396. *Lam.* 352.

Bailiffs.

Bailiff was punishable in false imprisonment, if he compel the party to go before any other Justice then he chuseth, *Lam.* 89, 94.

But now the law is adjudged to be, that the Bailiff or Constable shall chuse the Justice *Dal.* 59. and *Coke l.* 5. 59. b. *Fosters case.*

As the Bailiff may not compel him that is arrested for surety of the Peace, to goe before him that granted the warrant; so it is not reasonable that the Bailiff shall be drawn out of the division and limit where they both dwell *Lam.* 95. *Dal.* 171.

A Bailiff arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false imprisonment, *Dal.* 349. *Cro.* 149. a. *Lam.* 90.

A Bailiff arrests one by warrant for the Peace, the Justice will not binde the party, action lieth against the Bailiff, *Dal.* 1. *Lam.* 91.

Two Justices of Peace, one being of the Quorum, may give unto the Bailiffs of Francises before they exercise their offices, the oaths of 1 *El.* of supremacy, & 27 *El.* touching the

their offices, 27 *Elix. cap. 12.*

Bailiff taking above four pence for an arrest, is to forfeit 40 li. 23 *H. 6. cap. 10.* and lose treble damage to the party damnified.

Bailiff of the Hundred that executeth not a warrant against any defendant in the Sheriffs Court, shall lose 40 shill. 11 *H. 7. c. 15. Vide plus Warrants.*

Bakers, *vide* Assise of Pread.

Barettor.

A common Barettor is he, who is either a common mover, stirrer up, or maintainer of suits in law in any court, or quarrels in the country, *Dal. 36. Lam. 440. Cro. 84. a.* and is to be bound to his good behavior, and imprisoned, *Lam. 440. Vide plus Dal. 36. Coke 8. 36.*

Bargain & Sale, *vide* Inrolment.

Bark of Trees, *vide* Leather.

Bastardy.

Two Justices of Peace, one being of Quorum, in or next to the Parish, where a bastard left to the charge of the Parish, or likely to be chargeable, is born, are to take order for the relief of the Parish, keeping of the child, and punishment of the reputed father and mother, 18 *El. 3. 7 Jac. c. 4. Dal. 37.*

The reputed father and mother not performing the order set down by two such Justices, the delinquent is to be sent to the Gaol without bail, except they put in sureties to perform the order, or appear at the next general Sessions of the Peace, *Dal. 38.*

“ If the Justices of the Peace do not agree
 “ upon an order, it is to be referred to the
 “ Bench, *Dal.* 25.

“ *Quadragesima septimana sunt legitimum*
 “ *tempus mulieribus constitutum.* Coke Instit.
 “ 123. *Dal.* 38.

“ The mother may be examined upon oath,
 “ concerning the reputed father, the time and
 “ other circumstances, *Dal.* 37.

“ By 7 *Fac. cap.* 4. the mother is to be com-
 “ mitted to the house of correction for a year :
 “ but not till after delivery, and the child li-
 “ ving, *Dal.* 38.

“ If she offend the second time, she is to be
 “ committed to the house of correction, and
 “ there remain till she find sureties for her
 “ good behaviour, and not to offend again,
 “ 7 *Fac. c.* 4. *Dal.* 38.

All Justices of Peace in their several limits
 & in their Quarter-Sessions, may do all things
 concerning the statute 18 *El.* for Bastardy,
 which is limited to the Justices of Peace in
 several counties, 3 *Car. cap.* 4.

Reputed father to be bound to the good be-
 haviour till the child be born, *Dal.* 37.

Vide plus House of Correction.

If the putative father shall either before or
 after the birth of the child, by practice of any
 other, convey himself away, or cause the mo-
 ther to run or leave her child, such may be
 bound over to the next Gaol-delivery or
 Quarter Sessions, *Dal.* 37.

Battery lawful, *vide* Riot, Af-
 fault, Breach of the Peace.

Bawdery.

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Bath and Buxton, *vide* Licence.

Bawdery.

Bawdery is not meerly a spiritual offence, but mixt, and soundeth somewhat against the Peace, *Lam.* 119. *Dal.* 193.

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a suspected house in the night, may take company with him, and if he finde them so, he may carry them to prison, or to a Justice, to be bound to their good behaviour, *Da.* 193.

Resorters to bawdy-houses are to be bound to their good behaviour, *Dal. ibid.*

Keepers of bawdy-houses are to be bound to their good behaviour, *Dal. ibid.*

Beads, *vide* Agnus Dei.

Bear-wards, *vide* Licence.

Beer and Beer-brewers,
vide Victuallers.

Beggars, *vide* Rogues and poor people.

Blockwood, *vide* Logwood.

Bloudshed.

Presentment of bloudshed found in the Sheriffs Turn, and sent to the Justices of Peace, can neither be traversed before the Justices of Peace, nor at the Sheriffs Turn, *Lam.* 543.

C 5,

Bonds

34 Bonds, *vide* Recognizances.

Bowyers, *vide* Archery.

Brass and Pewter.

Brazier nor Pewterer may exchange or sell any Brass or Pewter, but in open Market or Fair, or in his house, unless upon request of the buyer, on pain of ten pounds for each offence, 19 H. 7. c. 6. 4 H. 8. 7. and inquirable at the Sessions, *Lam.* 621.

All working hollow wares of other lay metal, then according to the assize of the lay metal wrought in *London*, or not setting their seal on, lose the wares. Searchers of Brass and Pewter must be appointed by the Justices of Peace at Michaelmas Sessions, 19 H. 7. c. 6. 4 H. 8. c. 7. *Lam.* 621.

Breach of the Peace, or good behaviour.

What shall be accounted a breach of the Peace.

To threaten one to his face to beat him, at whose suit he was bound, *Lam.* 113. *Dal.* 181. *Cro.* 136. b. or in his absence, if he after lie in wait to doe it, *ibid.*

To command or procure one to do any unlawful act against the Peace, if it after be done.

Menacings, affraies, assaults, injurious and violent handlings and entreatings, battery, and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason, *Dal.* 181. *Lam.* 127.

A Farmer, Tenant, or Commoner, by threats

Breach of the Peace, &c. 35

threats or blows to repulse violence offered his Land-lord or Maior, *Lam.* 129. *Dal.* 185.

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance made for keeping of the Peace, *Dal.* 181. *Lam.* 114.

"A Justice of Peace certifieth into the K. Bench, that such a man broke the Peace in his presence; the party shall be put to his fine without any traverse, *Cro.* 132.2.

What not.

In his absence to threaten to beat him, at whose suit he was bound to the Peace, *Dal.* 181.

Threats or moderate correction of the Master, Schoolmaster, Gaoler, to those under their command, of Parents to the child within age, of the Lord to his villain, *Lam.* 127. *Dal.* 183.

To beat with rods a kinsman that is mad, to the end to reclaim him, *Dal. ibid.* *Lam.* 128.

Constable, Officer, or any of their company, to strike any for better execution of their office, *Dal.* 180. *Lam.* 128. By threats or blows to repulse violence offered to ones own person, wife, father, mother, child, master, *Dal.* 184.

Preservation of his own goods, *Ibid.* *Lam.* 129. and *Crom.* 136. b. affirm that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quære of it, and that a Master may onely with sword or staff defend him, *Dal.* 185. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, tournament, or barriers in the Kings presence, or by his command, *Dal.* 184. *Lam.* 129.

To take ones goods wrongfully, if not from
h. s.

36 Breach of the Peace, &c.

his person, *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his recogniz. *Cro.* 65. b. nu. 59. 8. 137. a.

So to take anothers Ward, *Dal.* 186. *Lam.* *ibid.* To disseise another of his Ward, *Dal.* *ibid.*

To trespass in anothers corn or grass, *ibid.*

Trespass lieth at the Common Law, for threatening to beat one.

Vide plus Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his own person from beating, wounding, or killing: but if he may escape with his life, without being wounded, maimed, or hurt, it is not lawful, except he first flie as far as he can, *Dal.* 184. *Cro.* 137. a.

To take a dog of any kind, or other thing of pleasure from the person of another, or in his presence with force or violence, amounteth to a breach of the Peace, *Dal.* 168.

Brewers, *vide* Victuallers.

Bridges.

“By common right Bridges should be amended by the whole County, for it is for the
“common ease of the County, *Cro.* 187. b. yet
“if any have fishings or profit in that river,
“they are chargeable, *Cro.* 186. b.

A man voluntarily maketh or amendeth a Bridge: he is not compellable to do the same again, unless he and his ancestors have used so to do time out of mind, *Dal.* 41. *Cro.* 186. a.

“Where a man and his ancestors have used
“time out of mind to repair a Bridge, the
“King cannot acquit him, *Dal.* 41.

It being not known who, or what land is chargeable

chargeable with the repairing of a decayed Bridge, four Justices, one being Quorum, may tax the Inhabitants, and make Collectors and
 " Overseers for repairing of it, and appoint
 " Surveyors, and exact an accompt of them:
 " and if they refuse so to do, the said Justices
 " may make out Process against them, by At-
 " tachments, Precepts, or Warrants under their
 " seals, returnable at the Quarter Sessions, and
 " may allow reasonable costs to the surveyors
 " and Collectors, 22 H.8. cap. 5. *Dal.40.*

" A man and his ancestors or a Corporation
 " time out of mind used to make a Bridge,
 " though they did it freely at the first and not
 " of right, it shall conclude the heirs & succes-
 " sors, *Dal.41. Cro.186.a.b. Prior of Stokes case.*

Justices of Peace where a decayed Bridge is,
 may award Process into the County where
 the party or land chargeable is, *Dal.40.*

A Bridge lying within a Corporation, the
 Hundred shall not be charged therewith. *Et e*
converso, Dal.40,41. Cro.187.b.

A Bridge lying in two several Counties,
 either must repair his part, *Dal.40. Cro.187.b.*

" A common Bridge lying within a Fran-
 " chise, they must repair it, *Cro.187.b. Dal.40.*

" A man is to repair some arches at the end
 " of a Bridge: if the Buttresses be decayed, he
 " is to follow the course of the water, and to
 " repair the high-way without leave of the
 " owner of the land, and lay stones, &c. neces-
 " sary, upon the adjoining land of another,
 " *Cro.186.b. Dal.42.*

" He that is bound to repair a Bridge, must
 " maintain the way at each end, *Cro.186.b.*

Buckstalls.

Burglary. Buckstalls.

One suspected to have offended against the statute, 19 H.7.c.11. of deer-haies, and buckstalls, &c. is to be examined by two Justices at Quarter Sessions, and being convicted by his own examination onely, is to be imprisoned till he find surety for the forfeiture, 19 H.7.c.11. Lam. 535, 630. the tenth part whereof the Justices examining shall have, *ibid.*

Buggery.

The sin of Buggery with a man or beast is felony, 25 H.8.c.6.5 El.c.17. Lam. 227, 256, 421.

Bull from Rome, *vid.* Treasons.

Burglary.

Burglary is when one or more in the night-time do break a dwelling-house, or a Church, or the wals or gates of a City or walled Town, with an intent to do felony, albeit they carry away nothing, Dal. 256. Lam. 258, 423. Cro. 31.a. nu.1.

The night is from sun-setting to sun-rising, *ibid.* Lam. 259, 423, 424. Dal. 256.

What act shall make a burglary without entring into the house.

Putting back the leaf of a window, Dal. *ibid.* Lam. 262.

Drawing the latch of a door, Dal. *ibid.* Cro. 33.b. Lamb. *ibid.*

Turning the key being on the inside, Cro. 31.b. Dal. *ibid.* Lamb. 262.

Breaking

Burglary.

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Breaking the glass-window, and hooking out of goods, *Lam. ibid.*

Making a hole in the wall, and shooting one within the house, *Dal. 256. Lam. 262. Cro. 31. b. nu. 7.*

The door being open, to put his hand over the threshold, and discharge a dag at any within, *Dal. ibid. Cro. 32. a. nu. 11. Lam. 263.*

They within cast out their money for fear, and they without carry it away, *Cro. 31. b. nu. 9. Lamb. 261, 262. Dal. 257.*

Without breaking the house.

To set foot over the threshold with a felonious intent, *Dal. 257. Cro. 32. a. nu. 13.*

To come down by a chimney, *ibid.*

To come in by help of a key, *Cro. 31. a. nu. 8. Lam. 262. Dal. 257.*

To enter the doors being open, & the owner flying to his chamber, to shove at the chamber door, *Dal. ib. Lam. 262. Cro. 32. b. nu. 25.*

If pretending to be robbed, by help of the Constable for search they rob the owner, *ib. Lam. 263. Dal. 257. Cro. 32. b. nu. 24.*

If upon conspiracy with a servant, the servant openeth the door, and the thief entreth, *Dal. 257.*

One entering, and the rest standing about the house, or not far off, *ibid. Lam. 264.*

To enter under the threshold.

What place makes Burglary.

Publick, as Church, wals or gates of a City or Town walled: Private, as a dwelling-house, if any be within, *Dal. 257. Cro. 33. a. nu. 32. Lam. 260, 261.*

The

The family for part of the night is abroad, and in the interim the house is robbed, *Dal.* 258. *Cro.* 33. b. nu. 40.

A man hath two dwelling houses, and dwelleth sometimes at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken, *ibid.* *Cr.* 33. b. nu. 40. *Dal.* *ibid.*

To break a chamber in a Colledge or Inne of Court, though no body is in the chamber, *Dal.* 258. *Lam.* 261. *Cro.* 33. a. nu. 29.

Breaking a barn or stable near to a dwelling house, to the intent to steal, *Dal.* *ibid.* *Cro.* 32. *Lam.* 261.

Robbing a back house, *Dal.* *ibid.*

To enter to ravish a woman. *Quære* *Da.* 259.

The Host of an Inne breaking into his Guests chamber to rob him, *Dal.* 258.

What not.

Entring onely with intent to beat, *Dal.* 259. *Lam.* 264.

Breaking, and departing without entring, *Lam.* 262. but it is felony, *ib.* *Lam.* 261. it is not burglary in one under 14 years of age, *Dal.* 259.

Nor in poor persons, that upon hunger break and steal under the value of 12 pence, *Dal.* 260.

Nor in natural fools, or *non compos mentis*, *ibid.*

Burning of houses.

Malicious burning of houses, being dwelling houses, or barn with corn in it, is felony, *Dal.* 273. *Lam.* 266, 424. *Cro.* 31. a. nu. 3.

Burning.

Burning of houses. 41

Burning of an empty barn in the night feloniously, if it be nigh a dwelling house, *Dal.* 274. *Lam. ibid.*

All burning that proceedeth of a former burning that was malicious, is felony, *Lam.* 266.

"One intending to burn anothers house, fireth it, and part onely is burned and quenched, it is felony, *Dal.* 274.

"One shooteth unlawfully in a hand-gun, and the fire setteth another mans house on fire, and burneth it down, it is felony, *Dal.* 274.

Burning of a stack of corn feloniously, *Dal.* 274.

Butchers.

Butcher gashing a hide whereby it is hurt, loseth 20 pence, 1 *Fac. c.* 22. *Lam.* 462.

Butchers watering any hides, except in June, July, or August, lose 3 shill. 4 d. an hide, *ib.*

Butcher or any other killing calves to sell under five weeks old, loseth 6 shill. 8 pence a calf, *Lam.* 453.

Or killing any weanling, bullock, steer, or heifer, under the age of two years, *Lam.* 453. 24 *H. 8. c.* 9. *vide* Victuallers.

Butter and Cheese, v. Victuals.

Butts.

Inhabitants of a Town not continuing their Butts as they ought, are to lose for every three monethes 20 shill. 33 *H. 8. c.* 9. *Lam.* 481.

Buying and selling, vide Cattel.

Calves

Calves and Kine.

Any killing Calves to sell under five weeks old, lose for every one 6 shillings 8 pence, 1 *Fac.* 22.

Any feeding in his own ground fit for milch-Kine, wherein none hath common, above 120 Sheep more then for his own provision, must raise one Calf for every 60 Sheep, or lose 20 shillings a moneth for each Calf, and keep one milch-Cow for every ten Oxen, Runts, &c. so fed, if he feed above twenty. And for every two milch-Kine must rear one Calf yearly, except it die, upon the like pain, 2 & 3 P. & M. c.3. 13 *El.* c.25. 7 *Fac.* c.8. *Lam.* 453.

Offences against this statute are determinable at the Quarter Sessions.

Captains.

Any Muster-masters taking reward for discharging any from service, lose ten times so much, or 20 li. 2 *E.* 6. c.2. *Lam.* 482, 483.

Captains, or others, having the charge of men for war, keeping back part of their pay, lose to their souldier treble so much as is not paid: or for gain licensing any to depart, lose ten times the gain, 2 *E.* 6. *ibid.*

Vide plus Travelling.

Castle, *vide* Felony.

Cattel.

Buyer of live Oxen, Runts, Steers, Kine, Calves, Sheep, Lambs, Kids and Goats, if he
sell

sell them within five weeks after, loseth the double, 5 E.6.c.14. *Lam.* 452. *Vide* Badgers.

Certificate.

Recognizance and release of the Peace, both are to be certified at the next Quarter Sessions, 3 H.7. ca. 1. but no pain by the Statute to the Justice if he do not, *Lam.* 111. *Dal.* 177. *Cro.* 139.a. nu. 11.

One that is bound to the Peace, maketh default at the day of his appearance, the Recognizance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace, *Lam.* 589.

Sheriff must certifie to the Justices at the next Sessions, indictments lawfully found and taken at his turn or law-day, 1 E.4. c.2. the penalty is 40 pound.

Clark of the Crown must certifie the names of any that have been out-lawed of felony, or Clarks convicted or attainted upon the letter of a Justice of Peace, or lose 40 shill. 34 H.8. c.14.

Transcript of every attainer, outlawry, or conviction had before the Justices of I^r. must be certified into the Kings Bench by the Clark of the Peace within 40 daies after the attainer, if it be in Term; if not, within 20 daies after the beginning of the next Term, on pain of 40 snillings, 34 H.8. c.14. Clark of the Peace must certifie to the Ordinary a transcript of the Clarks convicted or attainted, 34 H.8. cap.

cap. 14. Quære, because by 18 El. c. 6. no delivery to the Ordinary, *Lam.* 588.

Custos Rotulorum of the County where one is attainted as principal of felony, upon writing of the Justices of the Gaol-delivery or Oyer & Terminer of another County where one is accessary unto the other, must certifie what is done with the principal, 2 E. 6. c. 24. *Lam.* 588, 589.

Where the Justices are to receive indictments, and no power to proceed upon them, they must certifie them into the Kings Bench without *Certiorari*, *Lam.* 589.

Abjuration of a seditious sectary made in open Quarter Sessions, must be certified at the next Assizes unto the Justice of Assize, 35 El. c. 1. *Lam.* 590.

Presentment that goods and chattels of one attainted of felony be in others hands, it is to be certified in the Kings Bench, or Exchequer, *Lam.* 590.

Recognizance of an Alehouse-keeper must be certified at the next Quarter Sessions after the taking, or the Justice loseth five Marks, 5 E. 6. c. 25.

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificate of transcripts of Records of the Sessions into the Kings Bench, *vide* Clerks of the Peace.

Certificate of Riots, *vide* Riots.

Certificate of *Certiorari*, *vide* *Certiorari*,

Certificate of Examinations, *vide* Examinations.

Vide plus Recognizance.

Certiorari

Certiorari is to remove indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously, *Lam. 591.*

A Certiorari issueth out of the Chancery, & the Records are removed thither, and sent thither by *Mittimus* to any other Court, *La. 591.*

Certiorari to remove matters of the Crown, need not contain the cause of the removing, *Lam. 514.*

Certiorari into the Chancery, hath in *Cancellaria*, into the Kings Bench, *nobis mittatis*, *Dal. 416. Cro. 132.a.*

Certiorari may command either the Record it self, or the tenour of the Record, *Cro. 131.b. Lam. 515. Dal. 416.*

Certiorari is to be directed to the Justices, *Lam. 515.*

Justices of Peace ought upon Certiorari to remove the Record, though the party that brought the Certior. sueth not after to have it removed, *Da. 416. Cr. 132.b. & 133.a. Lam. 516.*

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken, *Da. 417. Cr. 132.b. 164.b. 167.b. La. 510.*

A certificate of a Certiorari ought not to omit that which did authorize the Just. to make the record, neither ought they to certifie more then the Certiorari warranteth them, *La. 516.*

If the Certiorari vary from the Record, the Justices need not to certifie, *Cr. 132.b. Da. 416.*

A Certiorari is to send up the Indictment of *A.* in which others are jointly indicted, the Justices need not make certificate of any but of *A.* only, *Cro. 132.a. Lam. 517. Dal. 416.*

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before him, or a force recorded before him, *Dal. 416. Cro. 132. b. 133. b.* but not without Certiorari, if he be put out, *ibid.*

No bills of Indictment, riot, forcible entry, assault, or battery found at the Quarter Sessions, shall be removed by Certiorari, unless it be delivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor, with such sureties as the Justices shall allow, to pay within one month after the conviction of the indicted to the prosecutor such costs and damages as the said Justices shall allow, otherwise the Justices to proceed to trial, *21 Jac. c. 8. Dal. 219, 220.*

Vide plus, Certificate and Justices of Peace.

Challenge.

One indicted of felony, may challenge as many as he will, shewing cause : but without cause he may not challenge above twenty, *22 H. 8. c. 14. Lam. 554. 28 H. 8. c. 1.*

What shall be a good challenge of a Furor.

That he was an indictor of him, *Lam. 554.*

That he hath no lands to clear yearly value of 40 shill. *Lam. 554.*

In Cities and Boroughs, that he hath no goods moveables worth 40 pound, *Lamb. ibid.*

That he is not *Probus & Legalis*, as, if he be attainted of felony, forgery, perjury, &c. *Lam. ibid.*

Champerty.

Champerty is when one for hope of having part of the thing in variance, moveth or causeth the suit to be moved at his own cost, and for it he is to be fined, 33 E.c.1. Lam. 441.

Chance-medly, *vide* Homicide.

Chastisement, *vide* Correction.

Church and Church-yard.

Maliciously to strike with a weapon in the Church or Church-yard, or to draw a weapon to that end, is loss of one of his ears, or having no ears, to be marked on his cheek with the letter F. 5 Ed. 6. 4. Lam. 419.

To keep Fair or Market in the Church-yard, *ibid.* Stat. Wint. 13 Ed. 1. c. 6. Lam. 419.

Conviction of any, upon the stat. 5 Ed. 6. c. 4. may be by the Justices of Peace at their Quarter Sessions, by verdict, testimony of two, or by confession, 5 Ed. 6. c. 4.

Execution of the forfeiture upon the stat. offstriking in Church-yards, to be awarded by the Justices of Peace before whom the conviction, 5 E. 6. c. 4.

Church-wardens.

Church-wardens and Constables, or one of them, or where none be, the Constable of the Hundred, must once every year present at the Quarter Sessions the monerthly absence from Church of Popish Recusants, and the names of every of their children of nine years old & above, abiding with their parents, and as near as they can the age of their children, and the names of such Recusants servants, 3 Jac. 6. 4. Lam.

48 Church-wardens.

Lam. 437. penalty 20 shil. *Vide Recusants.*

Churchwardens are to gather for the prisoners. *Vide Prisoners.*

Churchwardens and Overseers of the poor are yearly to make accompt to two Justices, whereof one ought to be of the Quorum, *viz.*

1 Of all sums received by them rated or not received.

2 Of such stock as they or any of their poor have in their hands, 43 *El.c.2.*

3 What apprentices they have put out.

4 What poor they have set to work or relieved.

5 What poor they have suffered to wander and beg.

6 If they have monethly met to take order for the poor.

7 If they have assessed the inhabitants and occupiers of lands, &c. in their Parish, and such as are of ability, with indifferency.

8 If they have endeavored to levy and gather such assessments, *Dal. 96.* Defaults in any the premisses is 20 shill. *ibid.*

“Two such Justices may make their warrants
“both to the present and subsequent Church-
“wardens and Overseers to levy all sums and
“arrearages of every one that shall refuse to
“contribute according to the assessment. And
“in default of distress commit them to the
“Gaol till paiment be made, *Dal. 95.*

Churchwardens and Overseers refusing to make a true accompt to the Justices of all such sums of mony, or denying to pay the arrearages, to be committed to the Gaol without bail till accompt made, and the arrearages paid

Church-wardens. 49

paid to the new Overseers, *Dal.* 96.

Church-wardens and Constables yearly upon Tuesday or Wednesday in Easter week; must call together the Parishioners.

And first chuse Surveyors for the highwaies, *Dal.* 67. 3 *P. & M.* c. 8.

2 Appoint six daies for that purpose, to be before Midsummer next following, *Dal.* *ibid.*

3 Give notice of the said six daies openly in the Church the Sunday after Easter, *Dal.* *ibid.*

Clark of the Peace.

Clark of the Peace must be present at the Sessions, to read indictments, and inroll the acts of the Sessions, as also to draw Proceſs, *Lam.* 393.

Clark of the Peace must record Proclamations for the rates of servants wages, and inroll the discharge of apprentices, 5 *El.* c. 4. *ibid.*

He must keep the counterpane of the Indenture of armour, 4 & 5 *P. & M.* c. 2. Repealed by 1 *Jac.* 25. *circa finem.*

And the books of licences given to Badgers and Loaders of corn, 5 *El.* c. 12. *Lam.* 393.

And of those that are licensed to shoot in guns, 2 *Ed.* 6. c. 14.

He must certifie into the Kings Bench transcripts of indictments, outlawries, attainders, and convictions had before the Justices of Peace within the time limited, under the pain of 40 shill. 34 *H.* 8. c. 14. *Lam.* 588, & 593.

Recognizance of the Peace is brought in to the *Custos Rotulorū*, & if the party grieved will not sue it, the Clark of the Peace may call up-

D

on

50 Clark of the Peace.

on it for the King, *Lam. 394. 2 H. 7. c. 1.*

The office of the Clark of the Peace is in the gift of the *Custos Rotulorum*, 37 H. 8. c. 1. *Lam. 394.*

What Records the Clark of the Peace is bound to certifie.

Vide Certificate.

The Clark of the Peace his fees.

Vide Fees.

He must record presentments for not coming to Church, and the certificate of not taking the oath of Allegiance, 3 *Jac. cap. 4. Lam. 393.*

"Clark of the Peace is Clark to the Justices, as the Statute 12 R. 2. cap. 10. nameth him, and not Clark to the *Custos Rotulorum* onely, *Lam. 394.*

"Clark of the Peace may exercise his place by himself, or by his deputy sufficiently intrusted in the Law, and admitted by the *Custos Rotulorum. Lam. ibid.*

Clark of a Justice his fees, *vide Fees.*
Clark of the Crown, what Records he ought to certifie, *vide Certificate.*

Clark of the Market.

Clark of the Market taking mony to dispense with faults, riding with more then six horses, tarrying longer then is necessary, loseth for the first offence 100 shillings, for the second 10 pound, for the third 20 pound, 13 R. 2. c. 4. Clark of the Market may take no mony for any bills. He ought to seal no Bushel

Clergy and Sanctuary. 51

Bushe but once. After the first sealing to take any thing is extortion, *Dal.* 150.

Clergy and Sanctuary.

One Justice of Peace may take out of the Sanctuary him that is abjured thither, being indicted of any offence punishable by death done after he is become a Sanctuary-man, and may commit him to the Gaol in the County where the indictment is found, till he be tried, 22 H. 8. c. 14.

In what offences Clergy is not allowable.

Breaking a house by day, and taking away any thing to the value of 5 shillings, 39 El. c. 15. *Lam.* 564, 565.

Conjurers or Witches, their aiders and counsellors, 5 El. c. 16. *Lam.* 564. 1. but 1 Jac. c. 12. repealeth 5 El. c. 16.

Receivers or aiders of Seminary Priests or Jesuits, 27 El. c. 2. *Lam.* 563.

Conspiring to burn, take, or raze any Castle or Bulwark of the Kings, 14 El. c. 1.

Rape or ravishment, } 18 El. c. 6. *Lam.* 564.

Burglary,

Carnally abusing a woman within the age of ten years, *Lam.* 564. 18 El. c. 6.

Principal or accessory before the fact of taking away of a maid, widow or wife, that hath lands or substance, &c. 3 H. 7. c. 2. & 39 El. c. 9. *Lam.* *ibid.*

Buggery, 5 El. c. 19. *Lam.* 564.

Murderer, *Lam.* *ibid.*

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Poisoner of malice prepenſed, *Lam. ibid.*

Robbing in day, or night a high-way, *Lam. ibid.*

Horse-stealer, *Lam. ibid.*

Church-robber, *Lam. ibid.*

Robbing of a house, any being in it, *Lam. 564.*

Robbing of booth or tent, any being in it, *Lam. ibid.*

Commander of petty-treason, *Lam. ibid.*

Commander of wilful murder, *Lam. ibid.*

So of robbery in any dwelling-house, in or near any high-way, *Lam. 565.*

Stabbing one who hath no weapon drawn, nor struck first, if he die thereof within six moneths, 1 *Jac. c. 8. Lam. 565.*

“ To burn any dwelling house, or any part thereof, *Lam. ibid.*

“ To burn any barn having any corn in it, *Lam. 565.*

Reporting false rumours against the King, devising or writing seditious or slanderous matter against the King, 23 *El. c. 2.*

Souldiers departing without licence of their Captain, *Lam. 565.*

Souldiers or Mariners which wander begging, 39 *El. c. 17.*

Or exceed the time of their licence, *ibid.*

Or forge, or use forged licence, knowing it, *ibid.*

The second conviction for forging false deeds, 5 *El. c. 14. Lam. 566.*

Privily to take away goods or money above 12 pence from the person of another, 8 *El. c. 4. Lam. 566.*

Calling

Calling himself an Egyptian, or keeping them company, contrary to the statutes, 1 & 2 P. & M. c. 4. 5 El. c. 20. Lam. 566.

A confined Recusant refuseth to abjure the Realm, or will not go, or returneth without licence, 35 El. c. 1, 2.

"To acknowledge any fine, recovery, deed inrolled, statute, recognizance, bail, or judgement, in the name of another not privy thereunto, 21 Jac. cap. 26. Dal. 276.

To what persons Clergy is grantable.

To a bastard.

To bigamus.

To whom not grantable.

Women, vide Women.

One that hath had it formerly, except he be within holy Orders, 1 E. 5. c. 12. Lam. 563.

In what cases Clergy is allowable.

Clergy shall be allowed in all cases, saving such as are mentioned 1 E. 6. c. 12. or especially since that time taken away, Cro. 118. nu. 33.

Clergy shall be allowed but once, 4 H. 7. c. 13. Lam. 563. except he be within Orders, Cro. 118. a. nu. 36.

A Woman convicted of felony above 12 Pence, and under 10 shillings, wherein a man may have his Clergy, shall be burnt in the hand with T. and whipped, 21 Jac. c. 6.

Upon an attainder by outlawry, Parliament, standing mute, challenging peremptorily above twenty, where the statute taketh it

away upon conviction by verdict, *vide Lam.* 567. if Clergy shall be denied.

Justices of Peace may give Clergy to a felon, if the Ordinary be present; but they cannot fine the Ordinary for his absence, but must relieve the prisoner, *Lam.* 551. *vide Ordinary.*

If the Enditement doth not directly agree with the words of the statute that taketh away Clergy, the prisoner may have his Clergy, *Lam.* 566.

After conviction and Clergy allowed, and the party burnt in the hand, he may be indicted of another felony, *Lam.* 559. 18 *Eliz.* cap. 6.

Where any man hath priviledge of Clergy, as a Clerk convict, and also in all cases of felony wherein the benefit of Clergy is restrained, excepted, or taken away by statute (wilful murder and poisoning of malice prepensed excepted) any Lord of the Parliament, or Peer of the Realm sitting in Parliament, shall, upon his request and prayer, alledging that he is a Lord or Peer of the Realm, though he cannot read, without burning in the hand, loss of inheritance, or corruption of blood, be adjudged for the first time onely as a Clerk convict, 1 *Ed.* 6. c. 12. but in all other cases, wherein Clergy is taken away by any statute since 1 *E.* 6. he is in the same degree as a common person, *P. R.* 213. *vide Ordinary.*

Cloth.

Every Justice beyond Trent hath some power in searching out the deceit of straining or stretching

stretching those country clothes, 39 *El.c.20.*

Any Justice of Peace next unto any Town corporate or City beyond Trent, is to join with the City or Town in appointing Overseers for cloth, *ibid.*

Two Justices of Peace must appoint yearly Overseers of cloth sold in Towns not being corporate, and swear them to see execution of that part of the statute which is yet in force, 3 *E.6.c.2. Lam.359. Dal.42.*

One commanded by two Justices of the Peace to appear to be made an Overseer of keeping the statute of clothing, and without reasonable excuse refusing, shall forfeit 40 shillings, one half to the two Justices, *Lam. ibid.*

Two Justices of Peace may dispose the money rising of deceitful cloth stretched, 39 *El.c.10.*

Woollen cloth presented by a retailer thereof to two of the next Justices of Peace, as defective against this statute, and the statute 4 & 5 *P.&M.c.5.* they shall cause the same to be cut into three equal parts, whereof one part to the King, one part to the presenter, and the third part to the Justices themselves, 5 *E.6.c.6. Lam.359.*

Justices of Peace faulty in executing the statute against the deceitful stretching of Northern cloth, lose 5 pound, 39 *El.c.20.*

Clothier must set his seal of lead to the cloth, to declare the length, to be tried by water, or be fined, 3 *Ed.6.c.2. Lam.469.*

Cloth is not to be stretched above a yard and a half in length, and half a quarter in
D 4 breadth,

breadth, nor to shrink more in wetting, on pain of 40 shillings, *ibid.*

Browns, Blews, Pewks, Tawnies, and Violets, must be perfectly boiled, grained, or maddered upon the woad, and shot with good cork or orchal, otherwise the dier loseth 20 shillings for every offence, 3 Ed 6.c.2. Lam. 469.

Wooll for Ruffets, Marbles, Graies, Paies, or for hats or caps, must be perfectly woaded, boiled, and maddered, or lose 20 shillings every cloth or wooll for a cloth, *ibid.*

Dying with Brazill, thereby to make a false colour, is loss of 20 shillings a time, 3 E.6. c.2. Lam. 469.

Putting flax, chalk, starch, or other deceivable things upon any cloth, except Devonshire and Cornwall straits, loseth 40 shillings a time, Lam. *ibid.*

Selling cloth by less measure then after the true contents by the yard and inch, loseth six shillings eight pence a yard, *ibid.*

Putting to sale cloth pressed to be used in England, Wales, or Ireland, loseth the cloth or value, *ibid.*

Refusing to be searchers of cloth, or neglecting to search once a quarter, loseth as the offenders, *ibid.*

Interrupting the search of cloth is loss of twenty pound, *ibid.*

Kentish cloth above six pound price, must contain betwixt 28 and 30 yards in length being wet, and 7 quarters broad within the lists, and being well dressed, must weigh 76 pound, or lose 20 shillings for want of length and

Commission of the Peace. 57

and breadth, and so much for wanting of four pound of the weight, 5 *Ed.6.c.6.Lam.470*. See now 4 *Fat.c.2*.

Deceit in linnen cloth, whereby it is become worse for good use, is loss of cloth, fine, and imprisonment for a month, 1 *El.c.12.Lam.471*.

Offences against the statute concerning the stretching of Northern clothes, to be presented by the Overseers at the next Quarter Sessions after the offence, and there to be heard and determined, 39 *El.c.20*.

Offences of the Justices of Peace in neglecting their duty, by not executing of the statute of deceitful stretching of Northern clothes, to be heard and determined by Just. of Assize, 39 *El.c.20*.

Commission of the Peace.

The commission of the Peace is determinable at the Pr. pleasure, either by express word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriff, *Lam.66,67,68,8cc*.

"If Just. sit by commission and do not adjourn the Sessions, the commission is void, "*Brook Commission*, 12. *Cro.188.a*.

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourn the same, *Lam.71*.

A new commission of the Peace *hac vice tantum*, will determine the old, *Lam.68*.

A commission of the same kinde in the same limits to other commissioners without word of discharge, is a revocation of the former by implication,

58 Commission of the Peace.

Plication, *Cro.* 189. a. *Lam.* 67. *Dal.* 11.

A proper Justice is made within a special liberty, without words of prohibition, the Justices of the shire may meddle there, *Lam.* 68, 69.

The making of a new commission is no determination of the old, till it be read or proclaimed at some Session, or in a full County, or at the Assizes, *Dal.* 11. *am.* 69.

The old commission determining by a new, no process or suit hanging before the old commissioners is discontinued thereby, *Dalt.* 12. *Cro.* 189. a. *Lam.* 69.

Accession of a higher title taketh not away the authority of a Justice of Peace, *Dal.* 9. *Cro.* 188. a. *Lam.* 70.

A new commission to hear and determine felonies, determineth the old commission of the Peace, but not concerning the Peace, *Lam.* 72. *Brook Commission* 8.

A Justice of Peace, in making justification by virtue of his office, needeth not to shew the commission of the Peace, because the keeping thereof belongeth to the *Custos Rotulorum*, *Lam.* 387, 388. *Cro.* 120. b. *nu.* 13.

“ By 17 R. 2. c. 10. in every commission of the Peace, two men of law (amongst others) are to be assigned, viz, to proceed to the deliverance of felons, *Dal.* 50.

“ Two were joynt commissioners, and it is presented that one onely sat, and fined the Countrey; and it was held void. But if one sit, and it is recorded that it is done before both, it is good. So of Justices of Peace, *Cro.* 121. a. *nu.* 19, *C* 189. a. for averment shall

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"shall not be taken against the act of the Justices or Commissioners; Cro. 189.3.

"A Justice cannot be made by writ but by commission, but may be discharged by writ, which is in nature of a *Superseatas*; Brook Commis. nu. 18.

"If the Justices in Eir, after Proclamation made, do come into the Country, and sit there by virtue of their authority, then ceaseth the power of the Commissioners of Peace. And so likewise, if the Kings Bench should remove into the County, Lam. 71. vide Cro. 188.b. & 189.a. Brook Commis. nu. 18. But Lambert maketh a *Quære*, for that Just. of *Nisi prius* do ordinarily bring a Commission of Oyer and Determiner, Lam. 71. and yet no determination of the Commission of Peace.

"And Brook Commis. 8. and Cro. 188.b. *Un nouvel Commission de oyer & terminer felonies determine le ancien Com. del P. quant al Oyer, &c. felonies, mes nemy quant al Peace. Et issint vide Commis. determine in part, & remaine pur le remnant.*

Commons.

Commons in Forests and elsewhere must be driven yearly within 15 daies after Michaelmas by the owner or officers, on pain of 40 shillings a time, 32 H.8.c.13. Lam. 483.

Vide plus Horses.

Common Prayer.

If any Minister have refused to use the Common

60 Common Prayer.

mon Prayer, or to minister the Sacraments according to the Book of Common Prayer, in such order and form as is mentioned in the said Book, or wilfully standing in the same, have used any other form in open Prayer, or in administration of the Sacraments, or spoken any thing in derogation of the said Book, or any part thereof, for the first offence it is loss of his spiritual living for a year, and imprisonment for six moneths without bail: for the second, deprivation and imprisonment for a year: for the third, deprivation and imprisonment all his life, 1 *El. c. 2.* 23 *El. c. 1.* *Lam. 417.*

Any having in play, song, or rhyme, or by any open word, spoken in derogation of the Book of Common Prayer, or any thing therein contained, or having caused or maintained any Minister to say any other Common Prayer, or minister Sacraments in other manner, or interrupting any Minister to say open Prayer, or administer the Sacraments according to the said Book, he loseth 100 Marks, or six moneths imprisonment without bail for the first offence: and for the second, 400 Marks, or twelve moneths imprisonment: and for the third, all his goods, and imprisonment for his life, *ibid.*

Concealment, *vide* Jurors.

Confession.

After a free confession of an indictment, and submission to fine in an action at the parties suit, for the same trespass, he shall not plead.

Confession.

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plead Not guilty : otherwise of a confession *sub modo*, as when he putteth himself *sub gratia Regis*, *Lam.* 530.

Quare whether if he once make a fine, he shall not be estopped to plead Not guilty. Also whether the Just. of Peace may drive the party either to an absolute confession, or to his traverse, *ibid.*

The voluntary confession of an offender against the statute, 1 *Jac.* c. 9. 4 *Jac.* c. 5. before a Justice of Peace is a conviction, and after confession his oath is sufficient proof against any other offending at the same time, 21 *Jac.* c. 7. *Dal.* 26.

Conjuration.

Conjuration of wicked spirits is felony, 5 *El.* c. 16. *Lam.* 227.

Vide plus Witchcraft, 1 *Jac.* c. 12.

Conservers of the Peace.

Coroners are Conservers of the Peace, and may in some cases imprison, *Lam.* 395.

Constables are Conservers of the Peace within their limits, *Dal.* 2. *Lam.* 14.

Constables.

Every Constable at the Common law before the statute 3 *H.* 7. c. 3. & 1 & 2 *P. & M.* c. 13. might bail one suspected of felony by obligation, or take surety of the Peace by obligation, or commit him to prison that made an affray, till he found sureties, *Lam.* 15.

Constables

Constables or other Officers may lay no hands on two intending to fight, till weapons drawn, or offer of blow, *Lam. 132.*

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them, *Lam. 132, 133.*

Constable or Officer presented at the Sessions for not endeavoring to part an affray, being present, shall deeply be fined, *Lam. 133.*

Not so if he be told of it being absent, *Dal. 33. at quare contra, Cro. 146.b.*

Two fighting in a house, the doors being shut, the Officers may break open the doors to see the peace kept, *Lam. 133.*

Constable taking an affrayer must imprison him in the stocks, not in his house; and that till he may provide to carry him to the Gaol, *Lam. ibid.* or to a Justice of Peace, *Lam. 133. Dal. 33, 35.*

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray, *Lam. 134.*

Constable or Officer may defend himself, and apprehend and imprison the party that shall make an affray upon him, *Lam. ib. Dal. 35. Cro. 147.a.*

One Justice of Peace may command that two Constables be chosen in each Hundred, *Lam. 186.*

Vide plus Affray, Arrest, Rogues.

High-constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders, *Dal. 3. Cook 11, 43, 44.*

Chusing.

Constables. 63

Chusing of High-constables useth to be at the Quarter Sessions; if out of Sessions, by the major part of the Justices of that division where they dwell; and use to be sworn at the Sessions, or by warrant from the Sessions, *Dal.*

46.

Vide plus Prison.

Conventicles.

Those are sometimes called Conventicles, wherein many do impart with others their meaning to kill a man, or to take anothers part in all things, *Lam. 173.*

Champerty also, maintenance, conspiracies, confederacies, and giving of liveries, other then to menial servants and officers, be contained under the word Conventicles, *Lam. ibid.*

Conies, *vide* Hunting.

Corn.

Certificate of one Justice of Peace, joyned with the Customer of the place, of unlading and selling of corn, grain, or cattel carried by water from one place to another of this Realm, unto the Customer and Controller of the place where the same was imbarked, is sufficient upon the statute of forestalling, 5 Ed. 6. c. 14. 13 El. c. 25.

One having sufficient corn, buying seed, without bringing so much as he buyeth, to sell the same day as the Market goeth, loseth double, 5 Ed. 6. c. 14. *Lam. 451.*

Vide plus Transportation.

Cutter

Cutter and carriers away of corn,
Vide Hedge-breakers.

Coroners.

Coroners ought to certify their inquisitions at the general Gaol-delivery, and not at the Sessions, 1 & 2 P. & M. 13. *Lam.* 395.

Coroners being parties to the exigents, and Judges of the outlawry, ought to be present at the Sessions, *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison, *ibid.*

Coroners may be convicted of offence against the statute of 1 H.8.c.7. by examination of witnesses, and touching extortion or not executing their offices, before a Justice of Peace, *Cro.* 130.b. *Lam.* 434.

Coroners fees, *vide Fees.*

Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unless he lay four acres of his own free-hold inheritance lying near to the said cottage, to be continually manured therewithall so long as that cottage shall be inhabited, forfeiteth ten pounds; except in a City, corporate or market Town, or ancient Borough, or being the dwelling-house of workers in minerals, coal-mines, quarries of stone or slate, makers of brick, tile, lime, or coal, not being above a mile from the works, and onely used for the habita-

habitation of such workmen, or for sailers, or men of manual occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper of forrests, chase, warren or park; or cottage for a common herdsman or shepherd of any town, or wherein any poor, lame, sick, aged, or impotent person shall dwell; or hath been decreed to continue for a dwelling by the Justices of Assise or of the Peace in open Assises or Quarter Sessions, 31 *El. c. 7.* 39 *El. c. 3.* 43 *El. c. 2.* *Lam. 476.* 35 *El. c. 6.* for continuing the cottage 40 shil. a moneth.

None to maintain or uphold any cottage, not having four acres to it, except as before, *ibid.*

Owner or occupier of a cottage must not suffer more households then one to dwell in a cottage, 31 *El. c. 7.* except it be by order of the Justices at the Quarter Sessions, with leave of the Lord of the waste, at the charge of the Parish, Hundred, or County, 39 *El. c. 3.* 43 *El. c. 2.* *Lam. 611.* Offences against the stat. of cottages and inmates, are to be heard and determined at the Quarter Sessions, 31 *El. cap. 7.* *Lam. 614.* and a Decree may be made at the Quarter Sessions for continuance of a cottage that hath not four acres of land, *ibid.*

“ A Decree may be made at the Quarter
 “ Sessions for the continuance of a cottage that
 “ hath not four acres of land. And the Just.
 “ may enquire, hear and determine of cotta-
 “ ges and inmates against the stat. of 31 *El.*
 “ 6.7. *Lam. 614.*

County.

A Justice of Peace in one County pursuing a felon into another County where he is taken, he shall be committed to the Gaol of the County where he was taken, *Dal.* 297, 298.

Cozeners and Cozenage.

Any falsly and deceitfully getting into his possession mony or goods of other mens, by colour of false privy tokens or counterfeit letters, and convicted thereof at the next Sessions by examination of witnesses, shall suffer any corporal punishment except death, 33 H. 8. c. 1. *Cro.* 83. a. 130. b. *Dal.* 48. *Lam.* 442, 535, 569, 609.

Two Justices of Peace, one being of the Quorum, may bind over to the next Sessions any such suspected person, or may imprison or bail them until the next general Sessions, *Dal.* 48.

One Justice of Peace (as it seemeth) may bind Cheaters to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction, *Dal.* 48.

Crosses, *vide Agnus Dei.*

Cross-bows and Hand-guns.

Every person may attach an offender against the stat. 33 H. 8. c. 6. and carry him to the next Justice of Peace in the same County, *Dal.* 65.

The Justice upon due consideration may send the offender to the Gaol, til he have paid the penalty of the statute of 33 H. 8. c. 6. *sc.* 10 li.

Cross-bows and Hand-guns. 67

The particulars of the said Statute.

1. None under an 100 pounds *per annum* may shoot in, or keep gun, dag, pistol, cross-bow, or stone-bow.

2. No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length : if it be shorter, every one having an 100 pounds *per annum* may seize the gun, and must break it, or lose 40 shillings, if he break it not within twenty daies, *1 am. 296, 480.* but may keep the cross-bow or stone-bow, *Dal. 65.*

3. No person not having an 100 pounds *per annum*, may carry in his journey any gun charged, or bow bent, but onely in time and service of war, or going to the musters.

4. None may shoot in a gun near to a market-Town, but in defence of his house or person, or at a But.

5. The master may not command the servant to shoot, except at a But or Bank of earth, or in warre.

Exceptions out of the Statute.

1. Shooting at a But or Bank of earth by serving-men, whose masters are inabled by statute.

2. Inhabitants of market Towns.

3. Dwellers alone, or near the Sea-side.

4. Gun-makers or Gun-sellers.

5. Those that have placards may shoot according to their placards, *Dal. 65, 66.*

Any under the value of 100 pounds *per annum*,

68 Cross-bows and Hand-guns.

num, licensed to shoot in Cross-bow or Hand-gun, is to present his name to the next Justice, by him to be presented and recorded at the next Quarter-Sessions, or else the Justice to lose 20 shillings, 2 Ed.6.c.14.Lam.301. *Quære* if this be now in use.

Any licensed at Quarter-Sessions to shoot in Hand-gun or birding-piece for Hawks-meat, is to shoot onely at fowl not prohibited, and to be bound in 20 li. 1 Fac.c.27.

Any two Justices of Peace may commit to the Gaol for three moneths any that shoot with gun or bow at any Partridge, Pheasant, house-Dove, Mallard, or at such fowl, or at any Hare, 1 Fac.c.27.

“ If any person not having lands, &c. of the
“ yearly value of 40 li. or not worth in goods
“ 200 li. shall use any gun, bow, or cross-bow,
“ to kill any Deer or Conies (except such per-
“ son shall have any ground inclosed, used for
“ the keeping of any Deer or Conies, &c. or
“ be Keepers or Warreners) any person ha-
“ ving in lands 100 li. by year in fee or for
“ life, may take from such offender such Guns,
“ Bows, or Cross-bows, and keep them to his
“ own use, 3 Fac.c.13. Dal.65.

Curriers, *vide* Leather.

Customer, *vide* Corn.

Custos Rotulorum.

Custos Rotulorum hath the custody of the Records and of the Commission, and ought to see that they be brought to the Sessions, Lam. 387.

Custos

Custos Rotulorum. 69

Custos Rotulorum is always a Justice of the Quorum, *Lam.* 387.

Custos Rotulorum alone cannot summon a Sessions, seeing that he hath no more authority in that behalf then any of his fellows hath, *Lam.* 382.

Cutpurse.

Taking of the goods of another to the value of 12 d. from his person into his own possession, without assault or fear, is felony without Clergy, 8 *El.* c. 4. *Lam.* 270. *Dal.* 262. & *Lam.* 422, 566.

But it will not amount to felony unto death, unless the thing taken be of the value of twelve pence, *Lam.* 270. *Dal.* *Quare.*

The thief must have an actual possession of the thing severed from the person of the owner, *Lam.* 271. *Dal.* 262. *Cro.* 35. a. *nn.* 17.

Cutting out of tongues.

Cutting out of tongues, and putting out of eyes, is felony, if it be done of set purpose, 5 *H.* 4. c. 5. *Lam.* 420.

Cutting of a Pond head.

Destroying of the head or damme of any pond, moat, stew, or several pit wherein fishes are put by the owner thereof, or wrongfully fishing in any of the same, so the intent to take away the fish against the owners will, 5 *El.* c. 21. *Lam.* 446. See 3 *Jac.* 6. 13. he is to suffer imprisonment, and to be bound to his good behaviour for seven years.

Deer

Deer and Deer-hayes.

Justices of Peace may not receive an indictment for killing a Hart proclaimed, for the jurisdiction of it belongeth to the Justices of the f. rest, 21 H. 7. c. 30. Lam. 505.

One convicted of unlawful taking or killing of Deer, must pay treble damages to the party, three months imprisonment, and after to remain there till he put in sureties for the good behaviour for seven years, 5 El. c. 21. 3 Fac. 6. 13. Lam. 571.

To sell, or buy to sell any Deer, Hare, Partridge, or Pheasant, except house-Partridge or Pheasant, or brought from beyond the Seas, loseth for every Deer 40 shil. every Hare or Partridge 10 shil. and every Pheasant 20 shillings, 1 Fac. c. 27.

Vide plus Hunting, and Buckstalls.

Demurrer.

If one indicted demurreth upon the evidences, the Justices ought to record it, Lam. 539.

Deputy.

A Judge cannot make a Deputy, Lam. 64.

Divine Service.

Any above the age of sixteen years, that repairth not faithfully and diligently to his Parish Church or Chappel accustomed, or (upon some reasonable let) to some usual place, where

where Common Prayer is to be used upon every Sunday and other Holy-daies, and hath not there orderly and soberly abiden during the time of such Common Prayer, Preaching, or other service of God, loseth 12 pence for every offence, to be levied by the Churchwardens to the use of the poor of the said Parish, and to be punished by the censures of the Church, 1 *El.c.2.*

It is lawful for one Justice of Peace in the limit, division, or liberty where the offender dwelleth, in not coming to Church, according to 1 *El.c.2.* upon proof of default, by confession of the party or oath of witness, to call the party before him; and for want of sufficient excuse and proof thereof to the satisfaction of the said Justice, the said Just. may give his warrant to the Church-warden of the said Parish under his hand and seal to levy twelve pence for every default by distress, and in default thereof to commit the offender to prison till payment made, 3 *Fac.c.4.*

Vide plus Recusants, and Sunday.

Dogs, *vide* Hunting, and Partridges.

Drovers, *vide* Badgers.

Dier, *vide* Cloth.

Drunkennes.

Any Justice of Peace, upon his own view, confession of the party, or proof of one witness upon oath, hath power to convince any person of drunkennes, 21 *Fac.7.*

Any, within six months after the offence committed,

committed, lawfully convicted of drunkenness, loseth 5 shillings, to be paid after conviction to the Church-wardens of the Parish where the offence shall be committed; and refusing and neglecting to pay the same, to be, by warrant from the Just. convicting, levied on his goods; if he be unable, to be set into the stocks six hours: and upon conviction of the second offence to be bound with sureties in ten pound to his good behaviour, 4 *Fac. c. 5.* and for want of sureties to be sent to the Gaol.

If the officer charged is negligent in levying or in correcting, he loseth 10 shillings, to be levied and disposed as the penalty it self, 4 *Fac. cap. 5.*

Church-wardens to be accountable to the use of the poor for the penalties by them received upon the statute of drunkenness, *ibid.*

Constables, Church-wardens and Tithingmen, in their oaths for their office are to swear to present offences against the statute of drunkenness, 4 *Fac. 5.*

Offences against the statute of drunkenness to be inquired after, and presented before the Justices of Assize, or Justices of Peace at their Sessions, and proceeded upon ordinary indictment, *ibid.*

Offenders against the statute of drunkenness not to be twice punished for the same offence, *ibid.*

Ecclesiastical causes and persons.

Eccllesiastical persons are subject to arrest for the Peace, unless they be attendant on divine

Egges of wild-fowl.

73

Divine service, *Lam.* 93. *Dal.* 166.

Vide plus Treason.

Egges of wild-fowl.

Egges of any wild-fowl usually eaten, taken from the place where they were layed, or destroyed betwixt the first of *March* and the last of *June*, one years imprisonment, and lose after a rate for each egge, *viz.* " Egges of crane or bustard 20 d. bittern, heron or shovellack 8 d. " mallard, teal, and other wild-fowl, one penny, 25 *H. 8. c. 11. 3 E. 6. c. 7. Lam.* 453.

To take away the egges of any hawk out of the woods or ground of any other person, three months imprisonment, and bound to his good behaviour for seven years, 5 *El. c. 21. Lam.* 446.

To take or cause to be taken upon his own or other mens grounds, the egges of any falcon, goshawk, lanner, or swan, one year and a daies imprisonment and fine, 11 *H. 7. cap. 17. Lam. ibid.*

Taker or willing destroyer of egges of Partridge, Pheasant, or Swan, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three months, unless he pay to the Church-wardens of the Parish in one of the places to the use of the poor 20 shil. 1 *Jac. c. 27.*

Vide plus Partridges, Pheasants, and Fowlers.

Egyptians.

One Justice of Peace may within one
E month

moneth after the arrival seize all the goods of any outlandish persons, calling themselves Egyptians, that shall come into the Realm, or company with them, or disguise themselves like them, and keep to his own use the one moiety, accounting in the Exchequer for the other, restoring to them again their goods, that prove by two witnesses that they were craftily or feloniously stoln from them, upon pain of forfeiture of double the value to the prover, 22 H.8. c.10. Dal.49. Lam.195,228,371,427.

After the moneth it is felony, and then they shall have the whole, 1 & 2 Ph. & Ma.4. Quære, whether the stat. 22 H.8. be still in force, or altered by the statute of 1 & 2 Ph. & Ma.4. Embezeling of Records, *vide* Records. Embracer, *vide* Maintainer.

Enditements.

“ Enditement is the verdict of Jurours that
 “ be charged to enquire of the offence that is
 “ presented to them, Lam.486.

All enditements ought to contain certainty, and therefore five principal things be requisite in presentments, Lam.487.

1. The name, surname, and addition of the party endited.

2. The year, the day, and place in which the offence was done.

3. The name of the person to whom the offence was done.

4. The name and value of the thing in which the offence was committed.

5. The

5. The manner of the fact, and the nature of the offence; as the manner of the treason, murder, felony, or trespass, *Lam. 487.*

Enditement of the accessory to felony, must contain the name of the principal, *Lam. 488.*

Misnamer in an Enditement shall not be made good by an *aliàs dictus*, *Lam. 490.*

Where the name of the party offended cannot be known, it may be *cujusdam ignoti*, because of the Kings advantage thereby by forfeiture, *Lam. 494.*

Any certainty whereby the day and year may be known, is sufficient, *Lam. 491.*

An offence done before midnight, must be supposed the day before; if after, then the day after, *Lam. 492.*

One striketh one day, whereon he languisheth, and dieth on another; the Enditement must suppose the last day, on which he died, *Lam. 491.*

Enditement supposing the fact done a day not come, is not good, *Lam. 492.*

Enditement or presentment for an omission, as *A.* hath not scoured such a sewer, needs not to set down day nor year, *Lam. 492.*

Enditement supposing an offence done at two several times, not good, *Lam. 492.*

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no such place, the Enditement is void, *9 H. 5. c. 1. 18 H. 6. c. 12. Lam. 493.*

If the stroke or poisoning be in one county,

and the death in another county, the Enditement in the county where the death is shall be good, 2 & 3 Ed. 6. c. 24. Lam. 493.

Certainty of the person to whom the offence is done, Lam. 494.

The goods of a Parson of a Church, *Bona Rectoris*, Lam. 468.

The goods of the Church, *Bona parochianorum in custodia Gardianorum*, ib.

The goods of Maior and Commualty, and the Maior dieth before the Enditement, *bona Communitatis*. *Quare*, because they have no such name of Corporation.

Goods taken in a mans life-time, and he maketh executor and dieth, *bona Testatoris*.

Goods taken after his death, *Testatoris in custodia Executorum*.

Goods hanging over a Tomb, *Executoris*. A Grave-stone, *bona Ecclesie*.

My goods are taken by a trespassor, and taken from him again, the Enditement shall be *bona* of him that had the last possession, Lam. 496.

Of the owner in the keeping of the bail, where they were taken from the Bail, La. 496.

Bona capellæ in custodia, or *bona domûs*, or *Ecclesia tempore vacationis*, is good, Lam. ib.

The name of the thing must be comprised, Lam. ibid.

Bona & catalla in trespass or felony is not good.

If dead things, it may be *bona & catalla*, expressing the names thereof in certainty.

If living things, it shall not say, *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The value is to be declared in felony to make it appear petty larceny; in trespass to aggravate the fault.

Enditement of things *feræ naturæ*, as Deer, Hares, Partridges, or Pheasants, is not good, unless they be taken in a Park or a Warren that be liberties, *Lam. 469. 497.*

Charters, their value cannot be esteemed, *ibid.*

It must be said *Preteritum*, of living things, *Lam. 497.*

So of dead things in the singular number, *ib.*

So of things that go by weight and measure, *Lam. 497.*

So of coin not current, *ibid.*

It must be said, *ad valentiam*, of dead things in the plural number, not going by weight and measure, *Lam. 497.*

Coin counterfeited, *ibid.*

Where the number ought to be expressed, as of the taking of Doves in a Dove-house, or young Hawks in a wood, there it must be *preteritum* or *ad valentiam*, *Lam. 497.*

Coin current carrieth his value with it, *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned, *La. 498.*

Nature of the offence.

Treason must have *Proditorie*.

Murder *Murdravit*, which implieth *ex malitia præcogitata*, *Lam. 500. Cro. 101. a. 103. b.*

Burglary, *Burglariter*.

Felony, *felonicè*, *ib.* so petty larceny, *felonicè*. In rape, *felonicè rapuit*, *Lam. 501.*

Furatus scemeth good without *felonicè*.

In felony, *cepit* alone, or *abduxit*, or *asportavit* is not good, *La. 501.* but *cepit & abduxit*.

In trespass or felony, the words *contra pacem* must be used, *Lam. 502.*

In forcible entry, *vi & armis* be needless, *ib.*

Upon a statute, *contra formam statuti in hujusmodi casu editi & provisi*, *ibid.*

Where many Statutes concern one offence, *contra formam diversorum statutorum*.

Where after an acquital one shall be endited for the same felony.

Where the first Enditement was void for insufficiency of matter of felony, *Lam. 556.*

Trial in a wrong County, *ibid.*

Misprision of the party that should bring the action.

Where the first Enditement was as principal, the second Enditement as accessory to the same felony after the fact, *Lam. 557.*

Where he shall not be again endited.

Where the Enditement was good.

Though it were by another name, if he be known by both, *Lam. 555.*

Though it suppose the same felony done in another year, *Lam. 556.*

Though the Process was erroneous, *ibid.*

Enditement at the Sheriffs Turn lawfully taken, must be taken by the Justices, and by them

them received, 1 E. 4. cap. 2. Lam. 504.

No Enditement can be taken, nor enquiry made, but before two Justices, one to be of the Quorum, Lam. 48.

Enditement upon penal statute, whereof the King is onely to reap the forfeiture, must be within two years after the offence.

And where a common person is, it must be within one year, except the statute do otherwise direct, Lam. 487.

“ Constable presents a fault at the Sessions,
 “ which belongeth to his office, which is al-
 “ lowed by the Inquest, it is good : Otherwise
 “ it shall not serve for an Enditement, Crom.
 “ 123.b.

“ A man may be indicted for the King upon
 “ any penal statute, Cro. 101.a. nu. 3. 109.a. nu. 3.

“ If there be two villages in one parish, the
 “ indicted shall be named of such a village in
 “ *parochia de A.* and not of the parish onely.
 “ But if there be but one village there, the
 “ name of the parish onely, or the name of the
 “ village onely, or of the village in such a pa-
 “ rish is sufficient. And so if there be divers
 “ hamlets, Cro. 102.a. nu. 16.

“ In an Enditement, *Si sit de pecunia nume-*
 “ *rata, exprimere debet numerum & genus pe-*
 “ *cunia : si massa rudis, tum valorem : si for-*
 “ *mata, tum qualitatem & pretium : si sit pan-*
 “ *nus, tunc colorem, pretium, & numerum ul-*
 “ *narum : si animal, tunc genus, pilum, & pre-*
 “ *tium ; & quod felonice cepit illud contra pa-*
 “ *cem, Cro. 103.a. nu. 35. Stam. 81.*

Enquiry.

Justices of Peace may onely enquire, and can proceed no further, as in

1. Certain offences against the Supremacy, 23 *El.c.1.*

2. Treasons, and misprisions of treason, made by the 23 *El.c.1.*

3. Offences against the Statute of false rumours against the King, 23 *El.c.1.*

Enquiry of a forcible entry, *vide*
Forcible entry.

Enquiry by presentment, *vide*
Presentment.

Enquiry by examination, *vide*
Examination.

Enquiry by information, *vide*
Information.

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dieth thereof within a year and a day; the Constable shall make a fine to the value of his goods, but it is no felony, *Lam. 134.*

To suffer a felon wilfully to escape, is felony; but a negligent escape is onely to be fined, 1 *R.3.c.3. Lam. 440. Dal. 276.*

Wilful escape of one arrested for larceny, man-slaughter *per infortunium*, *se defendendo*, is not felony; if the act were not felony at the time of the escape, *Lam. 230. Dal. 278. Crom. 39.a.nu.5.* Wilful

Wilful escape by the gaoler or keeper of a felon, is felony in the gaoler, not in the felon : if the escape be caused by a stranger, it is felony, *Lam. 229. Dal. 278.*

Escape suffered by him that receiveth a known felon, is no felony, *Lam. 230. Dal. ibid.* but shall be accessary, for that he was not arrested, *Cro. 39.a. nu. 4.*

Vide plus Prisoners.

A prisoner under arrest onely escaping, the escape must first be presented, before he that suffered the escape shall answer it, *Dal. 278.*

A Justice sendeth for a felon out of the gaol and freeth him without bail ; it is felony in the Justice, *Dal. ibid.*

A Justice *pro defectu scientiæ* baileth one notailable, it is but a negligent escape, *Cro. 39.b. nu. 4. Dal. 279.*

Offender upon his examination before a Justice confesseth the felony, who lettereth him go without commitment or bail ; it is a voluntary escape, and so felony in the Justice, *Cro. 39.a. nu. 7. 44.a. Dal. 304.*

A Town not walled must answer the escape of a manslayer in the day time, 1 *Cro. 40.b. nu. 1. Dal. 299.*

The Hundred must answer for a man slain out of the Town, and for insufficiency the County shall be charged, *Dal. ibid.*

Gaoler or other officer suffereth his prisoner to go abroad for a time, though the prisoner return as he was prescribed, or let his prisoner go by bail or baston ; it is a negligent escape, and fineable. But *quære*, for prisoners ought to be kept *in salva & ar-*

Et custodia, Dal. 277. Cro. 39. b. nu. 5.

"A Constable voluntarily suffereth a thief
"to drown himself, this is felony in the Con-
"stable. But if the thief (without the assent of
"the Constable) kill, hang, or drown himself,
"it is a negligent escape in the Constable, *Dal.*
"276.

Voluntary escape of one arrested or com-
mitted for felony, is felony in the Gaoler; if
for treason, it is treason; if for trespass, it is
trespass, *Dal. 278.*

Escheators.

Escheators other then those of a City or
Borough, that takes upon him the office, not
having lands in the Shire of twenty pounds
per annum, or for life at least, or that hath
sold or set to farm the office, or made a depu-
ty for whom he will not answer, and whose
name he doth not certifie within 20 daies into
the Exchequer, shall be fined 40 pound, 11 E.
4. c. 9. *Lam. 429.*

Escheator taking for execution of any writ
in any County above forty shillings, or forty
shillings where the land is not *held in capite*,
shall be fined forty pound, 23 H. 6. c. 17. *Lam.*
430.

Escheator taking above 15 shillings for fin-
ding an office not exceeding five pounds a
year, loseth forty pounds, 33 H. 8. cap. 22.
Lam. 430.

Eves-

Evesdroppers.

Evesdroppers which shall by night evesdrop mens houses are to be bound to the good behaviour, *Dal.* 191.

Evidences.

Justice of the Peace must binde over informers for felony to appear and give evidence against the felon at the next general Gaol-delivery, *Dal.* 49.

Justice of Peace must binde such as declare any thing material to prove the felony, to appear at the next Gaol-delivery, and give evidence, *Dal.* 303.

“If he which giveth evidence of felony to a Just. of Peace against another, will not be bound to give evidence at the Assises, he shall be committed, or bound to his good behaviour, *Cro.* 102. b. *nu.* 26. *Dal.* 35.

Examination taken by a J. of P. in one county, may be certified into another county, and there read, and given in evidence, *Dal.* 303.

Estreats.

Estreats are the extracts of fines, forfeitures and amerciaments made by the Clark of the Peace by indentures, the one delivered to the Sheriff, the other to the Barons of the Exchequer, *Lam.* 581.

Estreats of the penalty for shooting in guns, are to be recorded and sent into the Exchequer by

by the Justice that had the examination of the matter, *Lam. 297.*

Sheriff or his minister that shall levy any of the Kings debts, without shewing the party the estreats under the Exchequer seal, shall be fined and pay treble damages to the party, *42 E. 3. c. 9. 7 H. 4. c. 3. Lam. 432.*

He that estreateth issues of others then such who were chargeable or charged, loseth five Marks to the King, and as much to the party, *27 E. 6. 7. Lam. 432.*

Examination.

Felon brought before a Justice, must be examined before he be committed to Prison, and the information of those that bring him must be put in writing within two daies after, and the party bound to appear and give evidence at the next Gaol-delivery, *2 & 3 P. & M. c. 10. Lam. 212. Dal. 49, 303.*

Before the statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum*: but the offender shall not be examined upon oath, *Dal. 307.*

Circumstances observable in examination of a felon, *Lam. 218. Dal. 303. Cro. 98. a.*

In what offences conviction shall be by examination, *vide* the several offences.

Conviction cannot be by examination only, but where the statute giveth it, either by referring it to the discretion of the Justices, or specially limiting it, *Lam. 534.*

Where:

Where the statutes limit conviction to be by examination general, a Justice of Peace may examine as well the offenders as witnesses, *Lam.* 535.

Where the examination of a Justice of Peace is the conviction of the party, it ought to be upon oath: but when it is but to inform the Jury upon that enditement, it needs not, *ibid.* *Lam.* 536.

Examination of witnesses is to be taken as well against as for the King, *Dal.* 308. but *quare* whether it may be upon oath, which maketh against the King.

Confession of an offender before a Justice of Peace is not conviction, except he confess the same again upon his trial or arraignment, *Dal.* 311.

“Justice of Peace may examine upon oath
“him that informeth against a felon: for the
“informer may die before the assizes, and then
“the information without oath is not of such
“validity, *Dal.* 307. *Lam.* 215. *Cro.* 194. *a. nu.* 5.

Extolling foreign power, *v.* Treason.

Extortion.

Ordinary, Archdeacon, Official, Sheriff, Escheater, Coroner, Under-Sheriff, Bailiff, Gaoler, or other Officer, that by colour of his office taketh more then his fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing, *Lam.* 434, &c.

Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable, *Cro.* 57. *b. nu.* 2.

The Sheriff or Gaoler taking any thing of
a Con--

▪ Constable for bringing a felon to the Gaol, it is extortion, 4 E. 3. c. 10. Cro. 57. b. nu. 5.

“ The Gaoler takes 8 pence of one in prison
“ to let him have liberty, easment, or favour,
“ it is extortion, Cro. 59. a. nu. 26.

If the Ordinary or his minister take any thing to allow a Schoolmaster to teach children, 23 El. c. 1. Cro. 58. a. nu. 13.

“ If the Ordinary take ought for letters of
“ administration or probates of Wills, where
“ the goods amount not to above 5 li. wherein
“ the writer shall have 6 d. onely; or if they
“ be above 5 li. and not 40 li. the Ordinary
“ 2 s. 6 d. and the writer 12. and if above 40
“ li. the Ordinary 2 s. 6 d. and scribe 2 s. 6 d.
“ or 1 d. for every 10 lines ten inches long, at
“ the writers choice, Cro. 61. nu. 52. 21 H. 8.
“ c. 6. it is extortion, and the Ordinary forfeiteth
“ 10 li.

Vide Fees.

The Marshal detaining a Prisoner after he is discharged by the Court, for any thing due to him but his fees, Cro. *ibid.*

The Ordinary citing a lay person to appear in the Spiritual Court, to depose there as a witness, Cro. 59. b. nu. 35, 36, 37. & 60. nu. 44, 46, 48. & 231. a. & Fitz. J. P. fol. penul. it is extortion.

Vide plus Fees.

A man prescribeth to have 4 pence of every one whose beasts are taken in his ground, damage sesant being impounded, and to make amends to him at his will, it is extortion if he take it, Cro. 58. b. nu. 18.

To take any thing for a mortuary, contrary

to the statute 21 H.8.c.6. where the goods come not to twenty nobles besides debts, or for married woman or infant, or one that keeps no house, or wayfaring man, or any that is not resident where he died, is extortion, *Cro. 59.a. nu.27. 21 H.8.c.6.*

“ To take above 3 s. 4 d. for a mortuary,
 “ when the goods amount to 10 marks and un-
 “ der 30 li. or above 6 shillings 8 pence, where
 “ the goods are 30 pounds, and under 40
 “ pounds ; or above 10 shillings, where the
 “ goods are above 40 pounds, the debts payed,
 “ is extortion, *Cro. 59.a. nu.28. 21 H.8.c.6.*

Fairs and Markets.

HE that keepeth a Fair or Market in a Church-yard shall be fined, *Stat. Wint. 13 E.1. c.6. Lam. 419.*

False imprisonment, *vide* Arrest.

False tokens, *vide* Cozeners.

Fees.

The Sheriff shall have upon arrest by Bill, Writ, or Warrant, 20 pence ; the Bailiff that maketh the arrest, 4 pence ; the Gaoler, if he be committed, 4 pence ; and for the obligation 4 pence and no more, on pain of 40 pounds, *23 H.6. c.10. Cro. 58.b. nu.18. 176.b. nu.19.*

Bailiffs of liberties are to have like fees as the Sheriffs and their ministers have out of liberties, and like punishment for extortion, *27 H.8. c.24. Lam. 434. Cro. ibid.*

Clark

Clark of the Peace to be fined.

For taking above 12 d. for inrolling a bargain and sale of lands not exceeding 40 shillings a year, or 2 shil. 6 pence if it do exceed 40 shil. a year, 27 H.8.c.16. and the Justice of Peace the like for taking above the said sums in the said cases, Cro.59.a. Lam.436.

For taking above 12 pence for a recognisance of one that taketh a rogue into his service for a year, 14 El.c.5. Lam. *ibid.*

For taking above 2 shil. for a licence and recognisance of a Badger, Drover, Lader, or Kidder, and registering the licence of them both, 5 El. c.12. *ibid.*

For taking above 12 pence for a licence and recognisance to shoot Hawks-meat, 1 Jac.c.27.

Clark of a Justice of Peace to be fined for taking above 12 pence for a recognisance of an Alehouse-keeper, 5 E.6. c.25. Lam.436.

Coroner refusing to doe his office of one slain by misadventure without fees, loseth 40 shillings, 1 H.8. c.7. Lam.434.

Coroner taking above 13 shillings 4 pence for doing his office of one slain and murdered, of the goods of the slayer and murderer; if he have none, of the town where he was slain in the day, and was suffered to escape, 3 H.7. c.1. Lam. *ibid.*

Maiores to have for sealing

Bushels and other measures, a peny.

Weights, viz. a hundred weight, 1 peny 3
half

half a hundred, a halfpenny ; less a farthing :
and taking above, they lose 40 shil. 7 H.7. c.3.
11 H.7. c.4. *Lam.* 437.

Parson, Vicar, or Curate taking above four
pence for entring into the Church-book li-
cense to eat flesh on fish-daies, 5 *El.* c.5.

Or above 2 pence for registering a Testimo-
nial of any servant going from one place to
another, 5 *El.* c.4. *Lam.* 435.

Ordinary or his scribe or register that hath
taken more for the probate of a testament or
letters of administration then 6 pence for the
scribe for writing the probate of the testament
that shall be brought written in parchment,
and 6 pence for the administration where the
goods be not above 5 pound ; if above 5 pound
not above 40 pound, then 2 shillings 6 pence
for the Ordinary, and 12 pence for the scribe ;
if above 40 pound, 2 shillings 6 pence for the
Ordinary, and 2 shil. 6 pence for the scribe, or
1 penny for every 10 lines 10 inches in length,
at the scribes election ; and the like for every
copy of a testament or inventory, or else after
the rate of the lines as before, loseth 10 li. and
so much as is taken, to the party, 21 H.8. c.6 :
Cro. 61. a. nu. 52. *Lam.* 434.

Escheators fees, *vide* Escheators.

Receiver, Treasurer, or Minister of the King
that taketh of any that hath fee or pension of
the King, other fee then is given by ancient
laws and statutes, *viz.* 4 pence for payment of
every summe, forfeiteth 6 shillings 8 pence,
33 H.8. c.39. 7 E.6. c.1. *Cro.* 58. a. nu. 9.

Taking above 4 pence for impounding one
distress, loseth 5 pound to the party grieved,
besides

besides such money as he shall take above the summe of four pence, 1 *C.* 2 *P. & M. c. 12. ib.*

“ A man attainted of trespass cometh in *gratis*, and findeth surety for his fine, he shall pay no fees to the Sheriff or Gaoler, *Cro. 176. a. nu. 6.* so of him that is indicted before Just. of Peace, and is committed till he pay his fine.

“ The officer is to take nothing of him against whom process is granted to come before a Just. of Peace to finde surety for the peace, *Cro. 176. a. nu. 8.*

Fees for a Just. of Peace are (*ut dicitur*) *Cro. 176. a. nu. 9.*

- “ For a recognizance for the peace, 2 shil.
- “ For a recog. to bail a prisoner, 2 shil.
- “ For a *superfedeas* of the peace, 2 shil.
- “ For a warrant of the Peace under seal, 3 s.
- “ For release of the peace, 2 shil.
- “ For a warrant which concerneth not the peace, 4 pence.
- “ For the recognizance of an Alehouse-keeper, 12 pence, *Cro. nu. 10. 5 E. 6. c. 25.*
- “ *Vide plus Dal. 385.*

Felo de se.

A man that kills himself, either with a meditated hatred against his own life, or out of distraction or other humour, is *felo de se*, and forfeiteth his goods real and personal, chattels to the King, and debts due upon specialty, and also upon simple contract or without specialty, *Co. 4. 95. a. Dal. 240.*

“ Two fighting, the one of them falleth on
“ the

"the ground, and draweth his knife, the other
 "falling upon him, doth also fall on the knife
 " & is slain, he is in a sort *felo de se*, *Dal.* 274.
 " *Cro.* 28.a. nu. 7. *Pax reg.* 122.b. *Sta.* 16.a.

An infant, or *non compos mentis*, killing himself, doth not forfeit, but a lunatick doth, *Dal.* *ibid.* *Lam.* 247.

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of record, *Dal.* *ib.*

He forfeiteth no lands, nor is his blood corrupted, *Dal.* *ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body, as being cast into the sea, or secretly buried, the Justices of P. may inquire thereof, and a presentment before them intituleth the King to his goods, *Dal.* *ibid.* *Coo.* 5. 110.b.

Felony.

Felonies are ei- } Common law,
 ther by the } Statute law.

By the Common law, all kind of homicide not warranted, Burglary, Theft, Burning of houses, Rescous, and Escapes, *Dal.* 238.

Vide their several titles.

Felonies by Statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realm, or any sworn to the Kings Council, or the Steward, Treasurer, or Controller of the Kings household, 3 *H.* 7. 5. 14. *Dal.* 275.

Breaking

Breaking of prison by one being therein for felony, or a prisoner for felony, 1 E.2. *de prisonam frangent. Dal. ibid.*

And if he escape going to the Gaol, *Cromp. 49. b.*

If under arrest for felony or suspicion, whether in the Gaol or out, it is breaking of prison though he be not indicted of felony, *Cro. 38. a. nu. 1. P. R. 147.*

A stranger breaketh the prison, or openeth the stocks, or makes rescous of one imprisoned or arrested for felony, who escapeth, it is felony in them both, *Dal. 275. Cro. 38. a. nu. 1.*

Quare, if a stranger disturb the arresting of a felon, *Dal. ibid. Fitz. Just. P. fol. 114. Lam. 229.*

Rescuing a Prisoner going to execution is felony, *Dal. ibid.*

Gaoler, Constable, or other having a prisoner under arrest for felony, voluntarily suffereth him to escape, it is felony onely in him that suffereth the escape, *Dal. ibid. Lam. 229.*

If the prisoner escape by negligence of his keeper, it is felony onely in the prisoner, *Dal. ibid.*

Escape before arrest is no felony, but the officer may be endited and fined, *Dal. 276. Lam. 230. Cro. 39. a. nu. 5.*

Buggery with mankind or beast.

Burning of houses or stacks of corn.

Congregations and confederacies holden by Masons.

Cutting out of tongues, or putting out eyes.

Cutting Powdike, or bank in Marsh-land.

Conjuration or invocation of evil spirits,
1 Jac. 12. Consul-

Consultation with an evil spirit, &c. *Vide*
1 *Fac.* 12.

Embezeling the Kings ordnance, armour,
&c. to the value of 20 shillings, though at several times, 31 *El.* 4. *Dal.* 287.

Embezeling of any record,
writ, &c. 8 *H.* 6. c. 12. *Dal. ibid.* } These two be-
Rasing of a record is fine- } long not to fu-
able at the Kings will, &c. } stices of the P.
8 *R.* 2. c. 4.

Forging of evidences, &c. the second time,
5 *El.* c. 14.

Gaoler enforcing his Prisoner to become an
approver.

Hawks embezelled, and not brought to the
Sheriff.

Hawks concealed, or stolen from the ow-
ner.

Hunting Deer or Conies in the night, and
upon examination concealing the offence, or
disobeying the arrest for such offence.

Taking a tame beast or other thing in a
park by way of robbery.

Marrying a second husband or wife, the first
living, 1 *Fac.* c. 11.

Multiplication of gold or silver.

Infected with the plague, going into com-
pany contrary to command, 1 *Fac.* 6. 31.

Wilful poisoning, if the party die within a
year and a day after.

To receive, relieve or maintain Popish
Priests.

Recusants refusing to abjure, or return after
departure.

Purveyour taking for the Kings house
any

any thing above twelve pence.

1. Without warrant under the great seal,
vide Dal. 284.

2. Buying any thing in any other manner then is contained in their warrant.

3. Taking any carriage in any other manner then is comprised in their commission.

4. Shall carry away any thing against the owners will, without paying or agreeing for the same.

5. Shall not make his provision and purveyance by the testimony and apprizement of the Constable and four neighbours sworn, if the purveyor and owner cannot agree, and shall not deliver Tales or Indentures sealed with his seal touching the same.

6. Or shall take more victuals or carriages then he shall deliver unto the Kings house.

7. Or take sheep in wool betwixt Easter and Midsummer at small prices, or more then be sufficient for the Kings house, and carry them to his own, and shear them.

In every of these cases it seemeth to be felony in such purveyor, their deputy and servants.

A Chater of any subject or officer taking any thing against the owners consent, and not paying presently, 36 E. 3. c. 6. 7 R. 2. c. 8. 23 H. 6. c. 14. *Dal. 287. Cro. 48. a.*

Incorrigible Rogues banished the Realm, and returning without licence, 39 El. c. 4.

Robbing house, barn, or stable in the day, to the value of 5 shillings, though no body be within, 39 El. c. 15. no Clergy.

Robbing any house by day or by night, any person

person being therein, and thereby put in fear,
ibid. without Clergy.

Robbing any person in part of his dwelling,
any of his household being within, *ibid.* without
Clergy.

To rob any Booth in Fair or Market, any
person thereto belonging being within sleep-
ing or waking, *ibid.* sans Clergy.

Servant (other then an apprentice) to whom
money, goods, or chattels, &c. are delivered to
keep by master or mistress to the value of forty
shill. going away therewith, or converting them
to his own use, to the intent to sell the same, or
defraud his master or mistress, 21 H.8. cap.7.
5 El.ca.13. Dal.264.

Souldiers going out of the Realm to serve a
forein Prince, not having first taken the oath
of allegiance, 3 Jac.c.4. Dal.284.

A Gentleman, or of higher degree, Captain,
or other Officer in Camp, going to serve a fo-
reiner before he is bound with two sureties to
the King, not to be reconciled to the Pope, &c.
nor to make nor consent to any conspiracy
against the King, 3 Jac.c.4.

Souldiers having taken preft-money, not
going with their Captain; or being in service,
departing without licence, 18 H.6. c.19. Cook
6.27. 7 H.7. c.2. 3 H.8.c.5.

Mariners and Gunners taking preft-money
to serve the King, and departing without li-
cence, 5 El.c.5.

Souldiers and Mariners which settle not
themselves to some good course of life, but
wander idly, 39 El.c.17.

Souldiers and Mariners landing, and not
having

having a Testimonial from some Justice of Peace near their landing, *ibid.*

2. Or exceeding the time limited wilfully fourteen daies. *Vide* 43 *El.c.3.* that they shall be punished as Rogues.

3. Or forge, or have forged Testimonial, knowing it to be forged.

4. Or being retained in service after arraignment, doth depart within the year without the Masters licence, 39 *El.c.17.*

“ In all these former cases, see the stat. 43 *El.c.3.* That Souldiers and Mariners begging or counterfeiting a Certificate from their Captain, &c. shall be adjudged and punished as Rogues, *Dal.285. Vide Rogues.*

Transporting live sheep, the second offence is felony, 8 *El.c.3.*

Ravishing a woman with force, though consenting afterward, 13 *E.1.3. W.2.18 El.c.6.*

Abettors in rape are principals, *Dal.289. Cro.47.b.*

To ravish a harlot against her will, is rape, *ibid.*

To take any maid, widow, or wife having lands or goods, or being heir apparent to her ancestor, against her will, unlawfully.

And to receive any so taken knowing thereof, or to procure and abet the same, 3 *H.7.6.2. Dal. Cro. ibid.*

To abuse a woman carnally under 10 years of age, 18 *El.c.6.*

To take a mans wife with her husbands goods against her will, or her husbands, 13 *E.1.34. West.2. Stamf.94. Dal.290. Cro.35.a. nu. 2.*

Feloniously to take goods out of any Church or Chappel, *Lam. 420.*

A woman delivered of a bastard, doth by drowning or secret burying thereof by herself or other conceal the death thereof, so that it may not come to light: if it were dead born or alive, it is murder in the mother, except she can prove by one witness that the child was born dead, *21 Jac. c. 27. Dal. 290.*

To acknowledge any fine, recovery, deed inrolled, statute, recognizance, bail, or judgment in the name of another not privy to the same, is felony without clergy, *21 Jac. c. 26. Dal. 284.*

" Felony done in one Kings daies may be
" tried in another Kings time, *Cro. 37. 3. nu. 31.*
" *Dal. 297.*

" A felony is done in one county, and the
" felon flieth into another, and is there taken,
" he is to be committed to the gaol of the
" county where he was taken, and be removed
" by writ to the gaol of the county where the
" felony was done, *Dal. 298.*

" For stealing goods in one county, and
" carrying them into another county, the fe-
" lon may be indicted in either county. But for
" robbery the indictment must be in the coun-
" ty where the robbery was, *Dal. 298. Bro. cor.*
" *140. indict. 26.*

" One stealeth stolen goods, the owner
" may indict the first or the second, *Dal. 298.*

" Any man may prosecute for stealing *bona*
" *ignoti*, *Dal. ibid.*

" If the owner will not charge the felon, any
" other (after proclamation made, *If any will*
" *inform for the King*) may safely inform,
F indict

“indict and give evidence, *Dalt.* 298. But
 “A Justice of Peace hearing of any that can
 “inform, may send for him, examine him,
 “and bind him to give evidence, *Dal.* 298.

Felony of his own goods, *vide Theft*,
 Ferrets, *vide Hunting*.

Fewell.

One Justice of Peace may set on the Pillory, in the next Market-town to the place of offence, any person convicted of breaking the assise of fewell, and not able to pay the forfeiture; there to be at eleven of the clock on the Market-day, with a billet or faggot bound to some part of his body. *Quære*, whether one Justice may convict him alone, 7 E. 6. cap. 7. *Lam.* 196.

Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender, for the offence committed against him, *Lam.* 574.

Upon payment of the fine, or upon pledges found by a recognizance to pay it, the offender ought to be delivered, *Lam. ibid.*

The assessment of fine belongeth to the Justices before whom the conviction is lawfully had, *Lam.* 576.

Stander by when a man was slain, is to be imprisoned till he make his fine, because he did not his best to attach the murderer: so

so of other felonies, *Lam.* 132, 289.

Fine upon a forcible entry or detainer upon offenders convicted of record by a Justice of Peace, and by him committed to the Gaol, shall be assessed by the same Justice, and upon bonds with sureties he may enlarge them, *Tamen quare*; and estreat it, and send it into the Exchequer: but it is best to leave the fine to the discretion of the Kings Bench, *Lam.* 158, 159. *Dal.* 58.

Upon conviction for offences, where no fine certain is limited, no fine can be assessed till the offender be brought in by *Capias pro fine*, or otherwise, unless it be for Alehouses and Highwaies, *Lam.* 573.

Where any statute speaketh of fine and ran-some, the ran-some ought to be at least treble the fine, *Lam.* 575. The opinion of Sir Edward Coke is, that fine and ran-some are all one, *vid.* well discussed, *Coke institut.* 127.3.

Where the statute maketh an offence fine-able in general terms, or at the Kings will, the Justices of Peace before whom the conviction is had, may assess the fine, which is fittest to be done in open Sessions, *Lam.* 576.

Fines upon the statute of tiles, of cross-bows, and of alehouses, by express words of the statute, may not be altered, *Lam.* 578.

Fines must be reasonable and just, according to the quality of the offence, 34 *Ed.* 3. cap. 1. *Lam.* 577.

After one is taken by a *Capias pro fine*, the Justices of Peace are to assess the fine by their discretion, and to deliver the party, *Lamb.* 574.

Fines of Rioters, *vide* Riots.
 Fines of Brewer, Baker, Tipler,
vide Assise of Bread.

Fish.

Stealers of fish out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three moneths imprisonment, and to the party grieved his treble damages, 5 *El.* 21. *Lam.* 446. See 3 *Fac.* 13.

If any cast nets into waters, by which the fry of fish may be taken, or take Salmons betwixt the nativity of Mary and S. Martin, or young Salmons betwixt the midst of April and Midsummer, one Justice may punish them for the first offence, by burning their nets and engines; for the second, by 3 moneths imprisonment; for the third, by one years imprisonment; and for any of them, by fine at the discretion of the Justice, 17 *R.2.c.* 9. *Lam.* 190, 454, 576.

Forfeitures upon the stat. 3 *Fac.* 6. 12. where any offence is committed, in destroying the spawn or brood of sea-fish, may be levied by distress and sale of the offenders goods, by warrant from one Justice of Peace to the Constables or Church-wardens, 3 *Fac.* cap. 12. the forfeiture given is 10 shillings, the one moiety to the poor, &c. the other to the person that shall sue for the same.

He that shall by preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any daies now usually observed for fish-daies,

is for necessity of salvation of souls, or is the service of God, otherwise then other publick laws be, shall be punished as spreaders of false news are and ought, &c. *5 El.c.5. 1 Jac.c.29. Lam.442.*

Fish-days.

Any, except aged, sick, with child, or licensed, eating flesh in Lent, or on fish-days, loseth 20 shil. and one moneths imprisonment, *5 El.c.5. 27 El.c.11. Lamb.458. 35 Elix.ca.7. 1 Jac.c.29.*

Taverners, Inne-keepers common Tabling-house, Tipler, or Alehouse-keeper, offending against the statutes, *5 El.c.5. & 1 Jac.c.29.* for killing, dressing, and eating of flesh, is to lose the flesh, and the penalty of *5 El.c.5.* which is 3 pounds, *1 Jac.29. Lam.458.*

Forfeiture upon the Statute *1 Jac. c.29.* for eating of flesh, except such as be taken by the Justice of Peace, Maiors, Bailiffs, head-officers; or Constables, are to be equally divided betwixt the King and the Informer, *1 Jac.c.29.* expired.

Lisence granted to sick persons to eat flesh on fish-daies, shall be no warrant for them to eat beef, mutton, veal, pork, or bacon, *1 Jac. c.29.* expired.

Butcher or other, though licensed, killing in Lent to sell any ox, beef, hog, calf, or mutton, except three daies next before Easter, or oxen or beef for victualling of ships, loseth the meat or value, *1 Jac.c.29.* expired.

Justice of Peace, or head-officer of corporations,

tions, or Constables of Towns, may in Lent search Victuallers houses suspected of dressing flesh; and finding any flesh, beef, hog, calf, or mutton, may seise on it, and give it to the poor, 1 *Jac. c. 29.* EXP.

“ Bish. of the Diocess, Parson, Vicar, or Curate of the Parish where one is sick, may grant licence for eating of flesh, which must be signed with the hand of the Bish. Parson, &c. and endure no longer then the sickness, 5 *El. c. 5.*

“ Any person granting licence without need loseth five marks, and the licence is void, *ib.*

Flax.

Forfeiture due to the Informer upon the statute of flax and hemp to be levied by what Process the Justice will, 24 *H. 8. c. 4.* *Lam. 584.* but 24 *H. 8. c. 4.* is repealed by 35 *El. c. 7.*

Flesh, *vide* Fish-daies.

Forein power, *vide* Treason.

Forein plea, *vide* Trial.

Force.

Every trespass in judgement of law is a force, and the action may be, *quare vi & armis*, Dal. 199. *Lam. 141.*

That which is properly *Manu forti*, or force, is either *Multitudine*.

Manu forti, is violence offered to the person of

of another by deed or word, *Dal.* 199.

By deed, as actual violence, or to be furnished with offensive weapons not usually born, *ibid.*

Any thing which a man taketh in his hand to throw it at another, may be said to be armour, *Cro.* 74.b.

Multitudine, where there be two or three in a company, or more, *Dal.* 199.

Who shall be said to enter with force.

Forcible entry must be an actual entry, *Dal.* 199.

If one or more come weaponed, especially with weapons un usually worn, and violently enter into an house or land, *Lam.* 142. *Dal.* 199.

Much more being entred, if he or they offer violence, or fear of harm to any in possession, or drive any out of possession, *Dal. ibid. Lam.* 142.

Many come to doe a force, and one only useth force, all are guilty, *Dal.* 204. *Lam.* 143.

To enter peaceably, and forcibly to put out another, *Dal. ibid. Lam. ibid.*

To enter peaceably, and after to offer violence, threatnings, or fear of harm to one in possession, with intent to get him out, though he get him not out, *Dal. ibid. Lam. ibid.*

Entring peaceably, and saying they will hold, although they die for it, *Lam.* 146. *Dal.* 200.

To enter peaceably with weapons (not usually born by them) to house open, or grounds, *Dal. ibid.*

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The Master entring with moe servants then usual, *ibid.*

A trespass made *manu forti*, or *cum multitudine*, though it be but to cut or take away another mans corn, grasse, or goods, or fell or crop wood, or to do any other trespass, though the party be not put out of possession, yet it seemeth forcible entry punishable by the statutes: but otherwise if the entry be peaceable, yet it is disseising with force, *Lam. 143. Dal. 200.*

To enter peaceably, and after entry, by force or violence to cut corn, grasse, wood, &c. or carry away anothers goods, is force, *Dalton 200. Cro. 70.a.*

To distrain for rent due or not due with force, doth countervail a force, *Dal. ibid. Lam. 144.*

Divers enter where the entry is not lawful, and all save one demean themselves peaceably, and one only entreth with force, or after entry useth force, it is forcible entry in all, *Cro. 21. a. nu. 15. 24. b. nu. 43. 34. b. nu. 15. Lam. 143. Dal. 217.*

In all these cases of trespass, only the Justice of Peace may, as it seemeth, remove the force, and upon view imprison and fine, *Dal. 200, 202.* and upon view the Justice may instantly commit the offender, and record the force, *Co. l. 8. f. 120.*

Forcible entry by words.

To enter peaceably, and then to offer by threatening to kill the disseisee if he re-enter, *Dal. 200.*

What

What is not force.

To enter by fair means, his entry being lawful, and perswade them within to come out, and the door being open, or shut by the latch, to enter without multitude, or offensive weapons, or other violence, *Dal. 201.*

To enter peaceably and quietly, getting other out, and quietly to hold it, *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them, *Lam. 145.*

To take a man being out of his house, and imprison him, and in the mean time to send another peaceably to enter, is no force, *Lam. 146. Dal. 201.*

He that onely agreeth to a forcible entry made to his use, is onely disseisor, *Dal. 204.*

What shall be said a forcible detainer.

Forcible detainer is of lands and tenements not of the person, *Lam. 146. Dal. 201.*

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three years, *Dal. ibid.*

To deny a Justice of Peace to enter (upon supposal of a forcible detainer) is forcible detainer, though it be but by one person, and no weapons shewed, *Dal. ibid. P.R. 41. Lam. 145. Cro. 70. b. nu. 40.*

If the Justice enter, and findeth any armed, or any armour or unusual weapons lying by them, or finde more then the ordinary family, *Lam. 145. Dal. 202.*

106 . Forcible detainer.

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assail the enterers, *Lam. 145. Dal. 202.*

The disseiser forestalleth the way of the disseised with force, so that he dare not come near, *Dal. 202. Lam. 145. Cro. 69. b. nu. 26.*

To keep cattel by force where he hath no common, the Justice may imprison and fine, but not make restitution, *Dal. ibid. Cro. ibid. P. R. 39.*

To detain a house morgaged by force from the morgager is forcible detainer, *Dal. 203.*

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseised if he come again, *Dal. 201. Lam. 146.*

It seemeth to amount to a forcible detainer to threaten to maim, beat, or doe bodily hurt to the disseised if he come again, *Dal. ib.* for that death may ensue upon such beating or hurt.

What is not forcible detainer.

One entreth peaceably into a house, and finding armour or weapons, doth not remove them, *Lam. 145.*

What is not forcible detainer by word.

To threaten to burn his house or spoil his goods, to deny to open the doors, to deny to go out, *Dal. 202.*

What.

What is forcible detainer of rent.

The tenant resisteth so forcibly, that the owner cannot distrain for his rent, nor use his common of pasture, *Dal.* 203. *Lam.* 146. *Cro.* 70. a. n. 27. *P.R.* 39.

The tenant forestalleth the way by force and arms, or threatneth him that hath the rent or common, that he dareth not distrain or use his common, *ibid.*

The tenant maketh rescous of the distress with force and arms, *Dal.* *ibid.* *Cro.* 69. a. n. 26.

In these cases of rent or common, the Justice may remove the force, record it upon view, imprison and fine, but can award no restitution, *Dal.* *ibid.*

What persons may make a force.

One alone, if it be with offensive weapons or turbulent behaviour, to the affray of others, *Dal.* 203. *Lam.* 143.

An infant of the age of 18. *Dal.* *ib.* *Cro.* 69. a. and so he may though he be under 18.

A feme covert may by her own act make a forcible entry or detainer, and she may be imprisoned and fined, but the fine cannot be levied on the husband, *Dal.* 204.

Consent.

If one command or counsel others to a force, and be present, though he doe nothing, *ibid.*

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he is a principal, *Dal.* 204. but if absent, a disseiser.

Diversenter, one only committeth force, all are guilty, *ibid.* *Cro.* 22.a. nu. 15. 24. b. nu. 43, 34. b. nu. 15. *Lam.* 143.

Who cannot be put out.

The King cannot be disseised, therefore an indictment upon the statute 8 H. 6. for the King is not good; neither can the Kings Farmer prefer a Bill of Enditement upon the said statute, but must have an Information in the Exchequer, *Dal.* 205. *Cro.* 69.a. nu. 13.

Where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3 years together, *Lam.* 159. *Dal.* 210, 211. and may hire strangers to maintain his possession, and have his company in armour, *Dal.* *ibid.* *Cro.* 71.a.b. but he may not resist the Justice of Peace that cometh to view.

Upon enditement of forcible holding, the plea of three years lawful possession next before, avoideth imprisonment, fine, and restitution, *Dal.* 211.

But it holdeth not,

1. If the entry were forcible, though the holding peaceable.

2. If the holding were forcible, though the entry peaceable.

3. If a disseiser have continued peaceably 3 years. *Quare* if he shall be helped by 8 H. 6.

or.

Forcible entry. 109

or 31 *El. c. 11*. If a disseiser have forcibly continued his possession twenty years, he may be endicted upon 8 *H. 6.* and the Justice may make restitution, 14 *H. 7. c. 28. Lam. 160. Dal. 211. Cro. 71. a. nu. 49.*

4. If the possession of three years have been interrupted, *Cro. 71. a. Lam. 162. Dal. 211.*

A disseiser quietly holdeth three years, and after the disseisee entreth or maketh claim, the disseiser re-entring cannot hold with force, for he is in upon a new disseising, *Dalton 212.*

A lawful possessor, after twenty years possession is oured, he can neither re-enter, nor hold with force, *ibid.*

What force is lawful.

Force used by the Kings Officers for the due execution or advancement of justice, or of the judgment of the law : as,

1. To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2. A Sheriff or his Officers to apprehend by virtue of the Kings Writ.

3. A Justice removing unlawful entries, or holding of possessions, and repressing rioters, *Dal. 208.*

4. Justice, Sheriff, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturb or break the Peace.

5. It is lawful by force to break open doors, to arrest offenders within, if the Officer

Officer cannot otherwise enter.

Note, that the Officer is first to signifie the cause of his coming, before he attempts to break open the doors, Dal. 209. as,

First, for treason, felony, or suspicion of felony, *Cro. 170. b.*

2. Where one hath dangerously wounded another, *Cro. 131. a.*

3. An affray being in the house, *Cro. 146. b.*

4. Upon a forcible entry or detainer found by inquisition, *Dal. 208.*

5. Upon a *Capias utlegatum* in personal action, or *Capias pro fine* directed to the Sheriff, *Cro. 170. b.*

6. Upon Warrant or Process for attaching a Popish Recusant excommunicate, 3 *Jac. c. 4.*

7. Upon a Warrant for the peace or good behaviour, *Dal. 209, 333.* but *Cr. 176. b.* maketh a *Quare.*

8. Upon recovery in a real action, or *ejecti- one firma*, but not to execute the Kings Process upon the body or goods of any person at the suit of any subject, *Dal. 209.*

9. In cases where the King is party, *ibid.*

Forcible defence is lawful.

1. For every man to keep his house to himself, his family and goods, as his castle, as well for defence against injury, as for his repose; *Vide plus Houses, Dal. 209.*

2. In defence of husband, wife, father, mother, or master, *Dal. 184.*

3. Father or mother in defence of the child within age, *Dal. ibid.*

4. In defence of my goods or my land, *Dal. ibid.*

5. An

Forcible entry.

III

“ 5. An heir or feoffee may keep possession
“ by force, if they and their ancestors or feof-
“ fors, or they whose estate they have, have
“ been in peaceable possession three years,
“ *Dal. 210.*

In these cases he that attempteth may be dis-
turbed; and if he attempt to assault or lame
me, I may beat him again, as well in defence
of my person as possessions, but not kill him,
Dal. ibid.

“ If one will take my goods, I must first lay
“ my hands on him, and disturb him; if he
“ will not desist, I may beat him, *Dal. 185.*

What Justices of Peace are to doe in forcible entry or detainer.

Every Justice upon complaint or notice gi-
ven, ought at the cost of the party grieved to do
execution: *viz.*

1. He must go to the place, *Dal. 57. Lam. 147.*
2. Take sufficient power of the County, or
of the Town, and the Sheriff also (if need be)
as well to arrest offenders, as also for removing
of the force, and for conveying them to the
Gaol, *Dal. ibid. Lam. ibid.*

“ Whosoever of that County shall refuse to
“ give his attendance, and assist the Just. shall
“ be imprisoned, and make fine, *Dal. 56. 15 R. 2.*
“ *cap. 2.*

3. Arrest and remove all offenders, and take
their weapons, and prize them for the King,
Dal. ibid.

If the doors be shut, and entrance denied, he
may break open the house, *Dal. 57. Quere.*

The

The Justice cannot arrest or remove them, if he finde no force, except by enquiry, *Dal. ib.*

4. The Justice ought to make a record of the force, and either keep it by him or indent it, and certifie one part either into the Kings Bench, or to the Clark of the Peace, and keep the other, *Dal. ibid.*

“ One Justice of Peace upon his own view
“ of forcible detainer, may record the same by
“ 15 R.2.c.2. Cro.61.b. nu.9.

“ The Justice or Justices recording a force
“ upon his or their view, may not put the party
“ put out into possession, but must first enquire
“ by a Jury, and the force being found, put the
“ party outed into possession, *Dal. 59.*

The record of the Justice is, a sufficient conviction of the offender, and is not traversable, *ibid.*

5. The Justice ought to commit immediately to the next Gaol, those which he findeth continuing the force, until they pay their fine, *ibid.* & 115. or forfeit an 100 pounds, *ibid.*

But such force must be in the presence or view of the Justice.

6. The Justices, or some of them that see the force, are the proper Judges of that offence, and may assess the fine, but it must be upon every one severally, *Dal. 115.* and is to be estreated into the Exchequer; upon which assessing and estreating the party is to be delivered, *Dal. 58. Lam. 159.*

And so upon payment of the fine to the Justice, or recognizance for payment, *Dal. 58. vide Lam. 159.*

Quare, for the Sheriff is accountable for all.

Forcible entry. 113

all fines : and *Lamb.* adviseth to refer it over to the Kings Bench, *Lam.* 159.

Or the Justice may record the force, commit the offenders, and certifie the record to the Just. of Assize, or to the Sessions, and there the offenders be fined, *Dal.* 58.

But ought more properly to be assessed by them that record the force, *Dal.* 91. and to be of value.

Or the Justice may certifie the record into the Kings Bench, refer the fine thither, *Dalton* 58. which *Lambert* thinketh the best course, *Lam.* 159.

The fines must be reasonable, *secundum quantitatem & qualitatem delicti*, *Lam.* 577.

7. The force ought to be inquired of in some good place or town, neer where the force was, *Dal.* 58. and that within a moneth, if it be a rior, *Dal.* 115. One Justice may enquire, *Dal.* 58.

Enquiry may be though the offenders be not present, or though the Justice go not to see the place where the force is, *Dal.* 58. *Lambert* 152.

Without enquiry there can be no restitution, *Dal.* 59. *Cro.* 161.b. 164.a.

Upon enquiry making, the Justice must direct his precept to the Sheriff to summon 24 of 40 shill. a year land *per annum*, *Dal.* 213. *vid.* the form, *Cro.* 132.b. *Dal.* 400.

"If the Sheriff do not duly execute the Justices precept for the returning of a Jury, he forfeiteth 10 l. 8 H.6.c.9. *Dal.* 58.

Upon default the Justice may award an *alias* and *pluries infinite* till they come.

The

The Sheriff, at the day of the second precept, must return 40 shill. in issues upon every one, at the third Writ five pound, and at every day after the double, 8 H. 6. c. 9.

If any Jurour have not 40 shillings land, yet the enditement is good for the King. *Quere* if there shall be restitution, Lam. 152. Dalton 213.

Returning of smaller issues then the statute, hindreth not the enquiry, Dal. *ibid.* Lam. *ibid.*

8. Upon enquiry the Justice may make restitution, wherein the Justice needeth not to examine the title, Dal. 214. Lam. 156.

No restitution before inquisition, *ibid.* Cro. 161. b. 164. a. Dal. 214.

In the enditement not onely the entry, but also the putting out must be, and *& adhuc extra tenent*, Lam. 153. for lack of these words no restitution can be made, Dal. 214. Crom. 163. b. Lam. 153.

The enditement must be good, both in matter and form, Dal. 215. the words *manu forti*, or *cum multitudine*, are necessary, *ibid.*

The enditement must express the quality of the thing, whether messuage, cottage, &c. *tenementum* may extend to either, and so in certain, Dal. 214.

If restitution be made by a Justice upon an insufficient enditement, the Kings Bench will restore the other, Dal. 215. Cro. 162. a.

If error be in the enditement, any two of these Justices which were at the taking of the enditement, upon prayer of the party, may grant a *super sedecas* to stay restitution, if restitution be not made, Dal. 215. Cro. 165. a.

But no Justice not present can grant a *superseas*, *ibid*.

The Justice may make restitution, or give warrant to the Sheriff, or certifie into the Kings Bench, and leave the award of restitution to that Court, *Dal.216. Lam.156.*

None can grant restitution, but they before whom the force was found, *Dal.216.* except the Kings Bench.

None can personally restore the party, but he that took the enquiry, *Dal.216.* And that by precept to the Sheriff, *Lam.158.*

After enquiry the Justice of P. may break into the house by force, and put the ejected into possession, *Dal.59.*

If restitution be made without enquiry, it is punishable in the Star-chamber, *Dal.45.*

Restitution must onely be made to him that was put out, *Dal.159,213. Lam.153.*

Restitution is to be made onely of house and land, *Dal.214.* but not of rent, common, or advowson, *Dal.59.*

Restitution may be made notwithstanding a traverse, *Dal.60.* but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench, *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Star-chamber, *Dal.60.*

The offenders being gone, the Justice may send his Warrant, and commit them till they finde surety of their good behaviour, *Dal.60.*

If force be made by three, it is a riot, *Dal.61.*

The proceedings upon a Writ upon the Statute of Northampton, 2 Ed.3.3.

1. The Justice of Peace to whom this Writ is delivered, is but a minister therein, and coming to the place where the force is supposed, by the Writ he may cause 3 O-yes, and then make proclamation for silence, *prout Dalton 61. Cro.72.3.b. Lam.168.*

2. Then may he read, or cause the Writ to be read, or declare the effect thereof.

3. Then let three O-yes be made, and make proclamation again for silence, *prout Dal.61. Cro.72.a. Lam.169.*

4. Either enter and search for armour, or enquire by Jury, *Dal.62. Lam. ibid.*

All that remain after proclamation, are to be imprisoned, and the armour apprized, *ibid.*

If upon proclamation they depart, they are not to be imprisoned.

The execution of the Statute of Northampton without Writ.

Every Justice of Peace may execute it *ex officio* without Writ, *Dal.62. Cro.72.a.*

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Justice may enter, search, commit the offenders there found, apprize the armour, record all what he shall doe, and thereout send an estreat into the Exchequer, *Dal.62. Cro. ibid. Lam.171.*

The

The Justice cannot make restitution to the party outed, but onely remove the force, *ibid.* Lam. 172.

Of causes to stay granting of restitution, vide Dal. 218.

Forfeitures of a recognizance taken for the Peace.

Whatsoever is a breach of the Peace, the same is a forfeiture of the recognizance, *Dalt.* 181. as,

1. To threaten a man to his face to beat or kill him, *Cro.* 136.b. *Lam.* 115. but not if he be absent, *Dal.* 152.

2. To strike at, or offer to strike at a man, though he hit him nor.

3. All affraites, malicious and violent striking, or other mis-intreatings of the person of another, *Dal.* 181. *Lam.* 127.

4. To go with company or weapons unufual, *Dal. ibid.* *Cro.* 137.a. *Lam.* 126.

5. To command or procure another to break the peace, and if it be done in deed, *Lam.* 115. *Dal.* 182. *Cro.* 137.2.

6. Imprisoning or arresting another without warrant, *Lam.* 127. *Dal.* 182.

To thrust one into the water, whereby he is in danger of drowning, *ibid.*

To ravish a woman against her will, *ibid.*

To commit burglary, robbery, murder, manslaughter, or doe any treason against the person of the King, *Lam.* 127. *Dal.* 182.

To be riotously assembled.

The act that breedeth the forfeiture of a recognizance

cognizance of the peace, must be done unto the person of another, *Dal.* 182.

Vide plus Recognizance, *vide plus* Breach of the Peace, and Fines.

One committed for petty larceny, and convicted thereof, shall forfeit his goods, *Lam.* 273. *Dal.* 234. *Cro.* 36.b. *nu.* 20.

Forfeitures upon statutes, *vide* Several statutes.

Forgery.

Second forgery of deeds concerning another's land after a former conviction is felony, 5 *Eli.* 14. but not enquirable by the Justices of Peace, *Dal.* 288. *Cro.* 56.b. *Lam.* 549.

Forein plea.

One indicted of petty treason, murder, or other felony, pleadeth a forein Plea triable by Jury; it shall be tried before the Justices before whom he was indicted, and by the Jurours of the same County, 22 *H.* 8.c. 14. 32 *H.* 8. cap. 3. *Lam.* 552.

Forrester.

Forrester, Warrener, or Parker, after Hue and Cry to yeeld, killeth any man in his office making resistance, it is justifiable, 21 *E.* 1. *de malefactoribus in Parcibus*, *Lam.* 235. *Dal.* 255.

Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth for any victuals or wares before they come to
the

the Market, Fair, or Port, or moveth the party to enhance the price, or not to bring them to the Market, Fair, or Port, *Lam.* 450.

Forestaller convicted before the Justices of Peace at the Quarter-Sessions by examination of two witnesses, or presentment for forestalling, for the offence shall for the first time

Lose the goods, and be imprisoned two moneths without bail or mainprise.

2. For the second lose double the goods, and be imprisoned for six moneths.

3. For the third lose all his goods, stand in the pillory, and be imprisoned during the Kings pleasure, 5 *E. 6. c.* 14. *Lam.* 570.

The moiety of the forfeiture upon the Statute of forestallers due unto the party, is to be levied by *Fieri facias* or *Capias*, to be awarded by the Justices of Peace, *Lam.* 584.

Fowlers and Fowling.

Shooter, taker, or destroyer by guns, bows, setting-dogs, nets, or other engines, of any Pheasant, Partridge, Pigeon, Heron, Mallard, Duck, Teal, Widgeon, Growse, Heathcock, Moorgame, or such fowls, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three moneths without bail, unless he pay to the Churchwardens of one of the places, to the use of the poor, 20 shillings for every Pheasant, and also for every egge of Pheasant, Partridge, or Swan taken or destroyed, or after one moneth of his commitment become bound with two sureties

in recognizance of twenty pound never to do the like, the same recognizance to be returned to the Quarter Sessions, 1 *Fac. cap. 27. Lam. 334. Dal. 89. 7 Fac. c. 11.*

Vide Partridges and Pheasants.

Games, *vide* Unlawful games.

Gaol. Gaoler.

GAoler or Sheriff may make a gaol of his own house; so cannot a Constable nor Justice of Peace, *Lam. 133. Dal. 347, 348.*

Gaoler suffers a felon to go at large, and he escapes; it is felony in the Gaoler, not in the prisoner, *Lam. 229. Dal. 274. P. R. 147, 149. Dal. 278.*

Gaoler by hard and cruel custody compels his prisoner to become an approver; it is felony, 14 *E. 3. cap. 10. Lam. 231, 420. Crom. 493. Dal. 288.* as,

Gaoler killeth an unruly prisoner which doth assault him; it is no felony, *Lam. 235.*

Gaoler by hard usage killeth his prisoner; it is murder, *Lam. 240.*

Gaoler that taketh above four pence upon commitment of any prisoner arrested or attached, forfeiteth to the party grieved treble damages, and 40 pounds, the one moiety to the King, the other to the party that will sue for it, 23 *H. 6. c. 10. Lam. 431.*

Gaoler or Sheriff refusing to take a felon delivered by Constables or Township, or taking any thing for receiving, is to be fined, 4 *E. 3. c. 10. Lam. 434.*

Six

Glass-men.

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Six Justices may in sundry shires take order for the common gaol, whereof the Sheriffs shall have the custody, and to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute, 23 H.8. c.2. 13 El.25. Lam.336.EXP.

Accountant for money levied for the gaol to build it, goeth into another County; the Justices of Peace where the gaol is, may send an attachment for him unto another shire, 23 H.8. c.2. 25 H.8.c.5. 5 El.c.24.Lam.525.EXP.

Gaoler suffereth a prisoner to go abroad out of his sight, and he returneth not again; it is an escape, Cro.39.b.nu.5.

Gaoler refuseth to receive one arrested for felony, the Town must keep him till the Gaol-delivery, Dal.348,349.Cro.172.a. but the Gaoler denying to receive such, shall be punished by the Justices of Gaol-delivery, *ibid.*

Gaoler shall take no fees of any servant; carpenter, mason, nor other labourer committed for refusing to serve, on pain of 10 pound to the King, and 100 shillings to the party, 34 E.3.c.9. Cro.185.a.b.

Glass-men.

Glass-men of honest life may travel without begging within the County, by licence of three Justices under their hands and seals, one being of the Quorum, 39 El.c.4. but by 1 Jac.c.7. they are made rogues, and so to be punished.

G Goldsmith.

Goldsmith or worker of gold must work as fine silver or gold in allay as the sterling, and set his mark on it, or forfeit the double value, 2 Hen.6. c. 14. Lam. 467.

None to gild any thing, or any metal but silver, except spurs of Knights, and apparel of Barons, or above, on pain of ten times the value, and a years imprisonment, 8 H.5. c. 3. Lam. 467.

Good abearing.

Good abearing may be granted upon discretion, and that by one Justice out of the Sessions; yet better not to command it but upon special cause seen to themselves, or upon suit of others, and those very honest, and seldome for one cause alone, and not by one Justice only, Lam. 120. Dal. 191.

Good behaviour may be granted by special Writ out of the Chancery, *Custodibus pacis & vicecomiti & eorum cuilibet*, upon the statute of 34 Ed. 3. 1. Lam. 117. Dal. 192.

For what causes it is grantable, Dalt. 192.

1. Against common barrettors, quarrellers, and disturbers of the Peace.
2. Rioters.
3. Liers in wait to rob.
4. Generally feared or suspected to be robbers by the High-way.
5. Such as are likely to commit murder, homicide, or other grievances to the Kings subjects in their bodies.
6. Such

Good abearing.

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6. Such as shall practice to poison another.
7. Against all such as be of evil name or fame generally, but especially against such as are defamed in these particulars :

1. Those that haunt bawdy-houses.

2. Suspected to keep houses of common bawdery.

3. Common whoremongers and common whores.

4. Night-walkers that be suspected to be pilferers.

5. Evesdroppers that cast mens carts and gates into ponds, and such like misdemeaners in the night ; such as live idly, yet fare well, and go well clad, having little to live on, except upon examination they give good account of such their living.

6. Common haunters of Alehouses or Taverns, having small means to live on.

7. Drunkards twice convicted.

8. Messengers of thieves.

9. Such as make false hue and cry.

10. Cheaters and couzeners.

11. Libellers.

12. The putative father of a bastard.

13. Unlawful hunters in Parks, after examination taken.

14. Abusing of officers in executing their office, as Justice of Peace, Constable, or other officer of the Peace; as a Justice seeth a man break the Peace : and doth charge him to keep the Peace ; who answereth, he will not.

Words of contempt against a Justice of Peace, though he be not executing his office.

15. Abusing a Justice of Peace his warrant.

16. He that complaineth of riot or force, and the Justices being assembled for enquiry will not prosecute.

17. He that chargeth one with felony before a Justice and will not prosecute.

18. Abusing of a *Superfedeas* of the Peace to a wrong end.

By divers Statutes.

1. Disturbers of Preachers, 1 *M.c.* 3.

2. Destroyers of fish-ponds, or stealers of fish, after lawful conviction, 5 *El.c.* 21.

3. Takers of hawks or hawks egges out of other mens grounds after lawful conviction, 5 *El.c.* 21.

4. Stealers, hunters, or killers of deer or Cony in Park or Warren after lawfull conviction, 3 *Fac.c.* 13.

All these must be bound at the Sessions.

5. Popish recusants must be bound in the Kings Bench, 23 *El.c.* 1.

6. One pardoned for felony, is to be bound before the Sheriff and Coroners, 20 *Ed.3.c.* 3.

7. Disturbers of the execution of the statute for rogues, 39 *El.c.* 4.

8. Disturbers of the execution of the statute for the poor, 39 *El.c.* 4.

9. She that hath had twice a bastard, 7 *Fac. cap.* 4.

10. Infected with the plague, or having their houses infected and are unruly, 1 *Fac. cap.* 31.

Greyhounds, *vide* Hunting.

Gunt

Guns and Gunners.

Gunner that departed from his Captain without licence, or wandring with a forged licence, it is felony, *Lam. 427.*

Every person may attach an offender against the statute 33 H.8.c.6. and carry him to a Justice of Peace, *Dal. 65.*

And the Justice upon examination may send him to the gaol till the penalty be paid.

The particulars of the Statute 33 Hen.8.

None under 100 pound *per annum* may shoot in, or keep a gun, dag, pistol, cross-bow or stone-bow.

None may have or use any gun under three quarters of a yard in length.

One of 100 pound *per annum* may take such gun from the offender, or any cross-bow or stone-bow, and may keep the bow, but must break the gun.

None may travel with a gun charged, or bow bent, but in time of service, and to the musters, except he have 100 pound *per annum*, *Dal. 65.*

None may shoot in a gun near a Market-Town, but in defence of his house or person, or at a But.

The master may not command his servant to shoot, except at a But, or in war.

1. Except Serving-men (whose masters are enabled) at a But.

2. Inhabitant of Market-town.

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3. Per-

126 Guns and Gunners.

3. Persons dwelling alone, or near the Sea, within five miles.

4. Gun-makers.

5. Those that have Placards.

All persons which shoot in guns (other then such as have 100 pound *per annum*) ought to present their names to the next Justice of Peace, and the Clark of the Peace should record in *Dal.66.* maketh *quare* if it be in use.

“ The Sheriff or any of his officers may
“ carry guns, dags, or other weapons, offensive
“ or defensive, for the execution of their office,
“ notwithstanding the statute of 33 *Hen. Coh.*
“ 5, 72. *Dal.66.*

“ Any two Justices may commit, for three
“ months, such as shoot with gun or bow at
“ any partridge, pheasant, house-dove, mallard,
“ or any fowl, or at any hare, unless he
“ pay 20 shillings, 1 *Fac. c. 27. Dal.66.*

Vide Hunting Partridges.

Hares.

“ IF any have traced, killed, or destroyed any
“ Hare in the snow, he loseth 6 shill. 8 pen.
“ for each Hare, 14 *H. 8. c. 10. Lam. 447.*

Buying and selling of Hares, *vide Partridges.*
See the Stat. 1 *Fac. c. 27.* in Fowlers.

Harness and Habiliments of war.

To imbezil habiliments of war, or victuals provided for souldiers, mariners, or gunners, is felony, 3 *El. c. 4.*

Hart proclaimed, *v. Deer.*

- Harvest

Harvest time. 127

Artificers and other persons meet to labour, are compellable by one Just. of Peace or Constable, and the refuser to labour in hay-time or harvest, is to be put in the Stocks two daies and one night, *Lam. 475.* the Constable or other head-officer to do it upon pain of forty shill. *5 Eliz. cap. 4.*

Hawks and Hawking.

Unlawful taker of Hawks eggs is to have three months imprisonment, there to remain till he find sureties for the good behaviour for seven years, *5 El.c. 21. Lamb. 446. vide 3 Jac. cap. 13.*

Taking of Hawks eggs upon ones own grounds or anothers, or any Eires, or driving them out of their covert, or bearing any Hawk of the breed of England, called a Nysse, Goshawk, Tassel, Lanner, Lanneret, to be imprisoned a year and a day, and lose 10 pounds and the Hawk, *11 H. 7. c. 17. Lam. 446.*

Every Justice of Peace may examine the offences for hawking or hunting with Spaniels in eared or coddled corn, and bind over the offender with sureties to the next Sessions, *23 El. c. 10. Dal. 66. Lam. 447.*

Against hawking at pheasant or partridge, between the first of July and last of August, *vide 7 Jac. c. 11. and Partridges.*

Vide plus Larceny and Felony.

Hay and Oats.

Inholder taking any thing for litter, baking horse-

horse-bread, except in Town or Village, being a thorow-fare, and being no City, Town corporate, or Market-Town, the same to be of as size and weight, after the price of corn and grain in the Market; or sell horse-bread, hay, oats, beans, pease, provender, and all kind of victuals, both for man and beast, for reasonable gain; for the offence,

1. Fined.
 2. Imprisoned for a month without bail.
 3. Stand on the Pillory without redemption of money.
 4. Fore-judged for keeping Inne again,
- 21 *Fac. c. 11.*

Hedge-breakers.

Breakers and cutters of hedges, pales, rails, or fences, cutters and carriers away of corn growing, robbers of orchards or gardens, pullers up of fruit-trees, with intent to carry away, cutters or spoilers of woods, poles, or standing trees, convicted before a Justice of that County where the offence shall be done, by confession, or one witness upon oath, are to render such damage as the Justice shall limit; and if not able, to be whipped by the Constable, who for default in his office, is to be committed without bail, till he cause it to be done; 43 *El. c. 7. Lam. 302. Dal. 143.*

No Justice to proceed against such trespasses for offences done to himself, without assistance of another Justice, *ibid.*

The second offence is whipping, 43 *El. c. 7.*

High-waies.

One Justice may cause high-waies to Markets to be enlarged, and cleansed of bushes and trees, 13 E.1.c.5. Dal.67.

Every Justice may present upon his own knowledge in open general Sessions, any high-waies insufficiently repaired, or any default against the Statute, 2 & 3 Ph. & Mar.c.8. & 5 El.c.13. and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may assess the same, though the presented be absent, saving to the offender his traverse, Dal.67. Cro.125.b. 195.a.nu.5.

The defaults contrary to these Statutes.

1. If the Constable and Church-wardens do not on Tuesday or Wednesday in Easter week call together a number of Parishioners, and chuse surveyours for high-waies.

2. If six daies be not by them then appointed for mending high-waies before Midsummer.

3. If notice be not given by them openly in the Church the Sunday after Easter of the said six daies.

4. If he that hath a plow-land in tillage, or pasture, or draught, do not for every draught or plow-land send one cart with two able men to work eight hours of every of the said six daies, 20 shill.

And every other Parishioner having 5 li. in goods, 40 shill. in lands in the subsidy, must find every day two able men, or lose 10 shill. and every cottage one, or lose 12 pence a day.

But 18 *El.* 9. he that occupieth a plow-land in several Parishes, only where he dwelleth; and he which hath plow-land in several Parishes, shall be charged in each town, *Dal.* 68. *Cro.* 82. b.

5. If the carriages be not thought needful by the surveyors, then two able men for every cart spared, upon pain to forfeit for every one not sent 12 pence, 2 & 3 *Phil. & Mar.* cap. 8. *Cro.* 82. b.

6. If fences, hedges and ditches next adjoining to the high-waies be not kept low, scowred, and repaired.

7. If all trees and bushes growing in the high-waies be not cut down by the owner of the land, upon pain of 10 shill. for every default, 5 *El.* c. 13. 18 *El.* c. 9.

8. If any chosen to be surveyors refuse the office, or do not execute it, penalty 20 shill. 2 & 3 *P. & M.* c. 8.

9. If the surveyor do not within one month next after the offence committed, present it to the next Justice, he forfeiteth 40 shill. 5 *El.* c. 13. 29 *El.* c. 5.

10. If the Bailiff or Constable who receiveth the estreats, do not levy the same, or make not a true account and payment of all sums levied to the Constable and Churchwardens, or the Constables and Churchwardens have not imploied them upon the high-waies.

If the surveyors do certifie the next Justice within a month, the Justice ought to certifie the presentment at the next Sessions, penalty five pounds.

High-waies. 131

If the surveyors present not till after the month, and the Justices do certifie it at the next Sessions, it is not good against the offenders, *Dal. 70.*

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of April, and compel them to pay all such arrerages as they shall adjudge to the Constables and Churchwardens, or imprison them till payment of such arrerages be made, and call the Surveyors, and Constables, and Churchwardens to an account.

All fines at the Sessions for high-waies, shall be levied by estreats indented, sealed, and signed by the Clark of the Peace, and delivered by him within six weeks after Michaelmas, *Dalton 71.* as by Statute is appointed, *vide Statute.*

The Bishop, Chancellor and three Justices of Peace, may examine the bestowing of any mony appointed by any statute for the amending high-waies or bridges, and call to account the detainer thereof, *14 El. c. 5. 39 El. c. 18. Lam. 366.*

Upon indictment for repair of bridges in high-waies, there shall be like process as the Kings Bench useth, or such as the Justices of Peace think meet, *22 H. 8. c. 5. Lam. 523.*

High-waies leading from one Market Town to another, shall neither have dike, underwood, or bush, whereby a man may lurk to do hurt, within two hundred foot of one side or other: if default be in the Lord, and any robbery be done therein, he must be answerable

for

for it ; and the Lord of a Park must set it two hundred foot on each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot pass, *Dal.* 133.

Homicide.

Homicide is the killing of a man by a man, *Dal.* 234.

It is no difference whether the slain be alien, denison, or English man, if he lives under the Kings protection, *Lam.* 237. *Crom.* 21. a. nu. 1. *Dal.* 239.

To kill one attainted of treason, or of felony, or outlawed for felony, or attainted in Premunire, is felony, *Dal.* 239. *Cro.* 24. a. nu. 39. *Stamford* 13. quere.

Homicide is either killing himself, *felo de se*, or another.

Felo de se forfeiteth to the King his goods and chattels real and personal, and his debts due by specialty, *Dalt.* 240. but no lands, nor blood corrupted, *ibid.*

His goods are not forfeited till his death, *ibid.*

Infant, or *non compos mentis* do not forfeit; but a lunatick killing himself out of his lunacy, doth forfeit his goods, *Dal.* 240.

Homicide of another is $\left\{ \begin{array}{l} \text{Voluntary,} \\ \text{Involuntary.} \end{array} \right.$

Voluntary is $\left\{ \begin{array}{l} \text{Murder, vide Murder.} \\ \text{Manslaughter.} \end{array} \right.$

Manslaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other, *Cro.* 26. a. *Lam.* 248. *Dal.* 247.

Manslaughter.

Manſlaugh- } By chance-medley.
 ter is } *Se defen-* } perſon.
 } *dendo* } house and goods.

Manſlaughter by chance-medley is felony, but may have his clergy, *Dal.* 247.

One fighting breaks his weapon, a ſtander by lends him another, whereby the other is killed; it is manſlaughter in the lender, *Dal. ibid. Cro.* 26.b. nu. 12. *Lam.* 252.

Two fighting on the ſudden, part, and meet again, one killeth the other; it is a continued fray, *Dal. ibid. Lam.* 250. *Crom.* 23.b. nu. 31. & 24.a. nu. 36. & 26.a. nu. 9.

The ſervant fighting in his maſters defence, though there were malice in the maſter not told to the ſervant, *Lam.* 248. ſo a ſtranger ſuddenly taking part, *L. a.* 248. it is chance-medley.

Two that were in malice are reconciled, fall out upon a new occaſion, and one is killed; it is manſlaughter only, *Lam.* 250. *Dal.* 248.

Se defendendo, when one killeth another in the neceſſary defence of himſelf or his, thereby to ſave himſelf or his poſſeſſions or goods, or ſome other perſons which he is bound to defend from peril, and it is either againſt a felon, as murderer or thief, or a loial ſubject, *Lam.* 252. *Dal.* 253.

Againſt a loial ſubject, if he be aſſailed by another man, he muſt flie ſo much as he may till he be letted by ſome wall, ditch, hedge, preaſe of people, or other impediment, that his neceſſity of defence may ſeem inevitable, and he ſhall be committed till the time of his triall, loſe his goods, and ſeek his pardon, *Lam.* 253. *Dal.* 254. It is not material though he

he strike again, if before he give any deadly wound he flie to the streight.

“ A man flieeth to a wall, and holding out
 “ his weapon, the other runneth upon it and
 “ is slain, it is *se defendendo*, and forfeiteth
 “ his goods, *Dal. 274. Cro. 28. a. nu. 7.* But if he
 “ had fallen on the ground and drawn his knife,
 “ and the other fall on it, and killeth himself,
 “ he forfeiteth no goods, for he could not flie,
 “ and the slain is in a sort *felo de se*, *ibid. P. R.*
 “ *122. b. Siam. 16. a.*

Neither is it material though there were former malice, unless he lie in wait for the other, or agree for the place of fight, or strike the first stroke, *Lamb. 253. Dal. 254.*

Or assaulted in his own house upon a sudden quarrel, and thereby killeth him, *Lam. 254.* but he forfeiteth his goods and must have his pardon of course, except the assailant came with a felonious intent to kill or rob him, *Dal. 254. Cro. 28. a. nu. 6. Lam. 254.*

A man falleth to the ground, there his flying to a streight is not necessary, *Dal. 255.*

An officer or minister of justice, in executing his office being assaulted, is not bound to flie, *Dal. 255. Coke 9, 98.*

A servant killing him who robbed or killed his master, so it be done presently, or in defence of his masters person or goods, if it cannot otherwise be avoided, *Dal. ibid. Cro. 28. nu. 4.*

Forester, Parker, or Warrener, or any in their company, killing an offender in a Forest, Park, or Warren, after hue and cry to keep the Peace, if they yield not themselves, but flie, or defend themselves by violence, is no

no felony, *Dal.* 245. *Quare* if there be no malice in the keeper, *Cro.* 30.b.

In defence of my house and goods, it is justifiable by me, my servants or company, to kill one who attempteth feloniously to murder or rob me in my dwelling-house, or in or near a high-way, horse-way, or foot-way, or burglarily to break my house in the night, *Dal.* 254. *Crom.* 27.b. nu. 1. *Vide Lam.* 240. of one entring by force in the day, and killing in the dark.

To shoot at him that cometh to burn my house, is justifiable in me or my servants, *Dal. ibid.* *Cro. ibid.*

In defence of the possession of my goods, I may justifie to beat him that wrongfully taketh them, but not kill him, except he be a thief, *Dal.* 255. *Vide Assault.*

To kill a true man, in defence of house, land, or goods, is man-slaughter, *Dal. ibid.* *Cro.* 27.b. nu. 4.

Involuntary homi- { Mis-adventure,
cide is, by { Necessity.

By misadventure is, when a man doing a lawful act, without any evil intent, killeth a man: this is not felony of death, but he shall have his pardon of course for life and lands, but forfeiteth his goods, *Dalt.* 249. *Lamb.* 254.

A schoolmaster, father, mother, or master, correcting moderately his scholar, child, or servant; Shooting at pricks, butts, or lawful mark; A workman casting tyle, timber, or stone from a house, or any thing from a cart and giving warning, or doing other lawful thing, and giving warning.

Running

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of an unlawful act, without evil intent, is felony, as shooting arrows, casting stones into highwaies or other place whither men usually resort, *Dal. 250.*

Fighting at Barriers, or running at Tilt without the Kings command.

Quare if playing at hand-sword, bucklers, foot-ball, wrestling, and such like, whereby a man is slain or receiveth hurt, and dieth within the year and day, be felony of death, or may have their pardon of course. *Quare similiter* of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh, *Dal. 251.* if it be through the wilful default of another, it is felony.

The thing which causeth the death is a *Deodand*, and so forfeited to the King, *Crom. 31.a. Dal. 251.*

The forfeiture hath relation from the stroke given.

Deodands are not forfeited till the matter is found on record, *Dal. 251.*

The Jury which findeth the death of a man, must find and apprise the *Deodand*. It behoveth the Town to see it forth-coming; for the Sheriff shall be charged with the price, and shall levy the same on the Town, *Dal. ibid. Stam. 21.*

If the slain be under 14 years of age, nothing is forfeited as a *Deodand*, *Dal. ibid. Stam. 21. &c.*

Homicide.

Homicide by necessity is $\left\{ \begin{array}{l} \text{Commanded,} \\ \text{Tolerated.} \end{array} \right.$

Commanded.

An officer doth execution after judgement, according to his warrant; it is not properly homicide, but justice, *Lam. 234. Dal. 252.*

If the officer doth not observe order of law, it is felony in the officer, *Dal. ibid. Lam. 240. Stam. 13.*

"If a stranger, not lawfully deputed, put to death one condemned to die, it is felony, *Dal. ibid. Lam. ibid.*

"It is not lawful for the Judge, who condemned him to be put to death, *ibid.*

Tolerated.

One warranted to arrest one indicted of felony, upon resistance killeth him, *Dal. ibid. Lam. 234.*

Every private person upon hue and cry to take a felon, if he resist and will not yield, may kill him, *ibid.*

Conductors of a felon to the Gaol, upon resistance or flight may kill him, *Dal. 253. Lam. 234.*

A prisoner in the Gaol attempteth to escape, and striketh the Gaoler, he killeth the prisoner, it is not felony, *ibid.*

Rioters, forcible enterers or detainers, that shall resist the Justice of Peace, or other the Kings officers, and will not yield themselves, being slain, it is no felony, *Cro. 23. b. nu. 28. 30. b.*

30.b. 158.b. *Lam.* 235. *Dal.* 253.

If an officer, by virtue of the Kings process, arresting one for debt or trespass, is resisted, and killeth the resister, it hath been taken to be no felony, *Dal.* 253. *Cro.* 24.a. 30.b. *Quare Cok.* lib. 4. fol. 40. 41.

To kill a true man in defence of house, lands, or goods, is homicide by necessity, *Dal.* 254.

In all these former cases there must be inevitable necessity, that the offender could not be taken without killing, *Dal.* 253.

Horses and Mares.

Any Justice may hear and take the claim of the owner of any horse, &c. which was stolen within six months after the sale thereof, the proof to be made by two witnesses upon oath within forty daies next ensuing the said claim, *Dal.* 73. *Lam.* 203. 31 *Eli.* c. 12.

The Justice of Peace may minister an oath to the buyer what money he paid, *bonâ fide*, so as the right owner repaying his money may have his horse again, *Dal.* *ibid.*

Owner, officer, or ruler of any fair, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose forty shillings for every fault, and answer the party grieved, 2, 3 *P. & M. c. 4.* *Lam.* 471.

The sale of every horse not being according to the stat. in every point, is void, *Dal.* 73. *Lã.* 472.

1. The horse must be one hour at the least in the place of the open fair.

2. All the parties to the bargain being in the fair, must come with the horse to the book-keeper.

3. The

Horfes and Mares. 139

3. The book-keeper must take perfect knowledge of the seller and of the voucher, of the Christian name, surname, mystery and place of dwelling.

4. The voucher must know the seller indeed, and declare to the book-keeper the Christian name, surname, mystery and dwelling, as well of himself, as of the seller.

5. The book-keeper must make a true and perfect entry of the sellers name and place of dwelling, &c. and of the true price, forfeiture, 31 *Et. c. 12.*

Every contract for a stollen horse out of the fair is void, though it be after booked, *Dal. 74.*

A sale in open market shall not take away the owners property, the buyer knowing that it was anothers, *Dal. ibid.*

All horses, and all other goods, are to be sold in such a place or shop as is commonly used for the selling of goods of the same kind, to alter the property, *Dal. ibid.*

A thief selleth a stollen horse by a false name, and is so entred in the toll-book; such mis-naming maketh the sale void against the owner, *Dal. 74.*

Horse-bread.

Inholder in a corporate or market Town, where there is a common baker that hath been an apprentice therein seven years, may not make horse-bread within his house, 32 *H. 8. 41. 21 Jac. c. 21.*

Inholder or ostler in a thorow-fare Town, being no city, town corporate, or market-town, being a baker, and one that hath been an

an apprentice therein seven years, may make horse-bread within his house, 21 *Fac. cap. 21*.

The horse-bread must be sufficient, lawful and of due assize, according to the price of corn, 21 *Fac. 21*.

- | | | |
|---------|---|--|
| Penalty | { | 1. Fine. |
| | | 2. Imprisonment for a moneth without bail. |
| | | 3. Stand in the pillory without redemption of money. |
| | | 4. Forejudged for keeping Inne again, 21 <i>Fac. c. 21</i> . |

Vide Inne-holder.

Hospital.

The BMhop and his Chancellour, with two Justices of Peace next inhabiting, may charge the collectors of a revenue of an Hospital, upon a pain, presently to account, and to imploy the surplusage to the use of the Hospital, *Lam. 356. 14 Eliz. c. 5. 39 El. c. 18.*

Hospitality, *vide* Religious house.

House.

1. A mans house is his castle for defence, *Dal. 209.*

2. It protecteth against any arrest at the suit of any subject, *ibid.*

3. In some cases it is a privilege against the Kings Prerogative; for it hath been adjudged, that Salt-peter-men may not digge in a Mansion-house without the owners consent, *ibid. Coke lib. 11. fol. 82.*

Theeves

Theeves or murderers attempting to rob or murder a man in his house, he may assemble company and kill any of them, and forfeiteth nothing, *ibid.*

He may beat him that will enter upon his possession, but may not kill him. *Quare* if he may hire strangers to aid him, or put his ordinary company in armour, *Dal.209.*

Vide plus Homicide.

House of Correction.

House of Correction with implements and backides fitting for setting on work idle persons, to be erected and provided in a convenient place in every County before Michaelmas 1611. the same to be conveyed over to such as by the greatest part of the Justices at the Quarter-Sessions shall be chosen to be employed for setting on work idle and disorderly persons, on pain of five pound for every Justice of Peace, the one moiety to the informer, the other towards the erecting of the house, 7 *Fac. cap. 4.*

Master of the said house to be appointed by most of the Justices at the Q. Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering, such persons as shall be sent to him, 7 *Fac. c. 4.*

Master of the house of correction giving sufficient security for performance and continuance of his service, is to have yearly such money as by most of the Justices at the Q. Sessions shall be thought meet, to be paid quarterly by the

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the Treasurer, or else the master to levy it in such sort as the Treasurer may, 7 *Fac. c. 4.*

Constables shall appear before the Justices of Peace twice in the year, and give account upon oath in writing, under the hand of the minister, what rogues have been apprehended, and how many punished, 7 *Fac. c. 4.*

Constables not safely conveying to the house of Correction such as by the Justices of Peace at their meeting for the execution of the Statute 7 *Fac. c. 4.* shall be sent thither, to pay such fine under forty shillings as by most of the Justices shall be assessed, 7 *Fac. c. 4.*

A woman having a bastard which may be chargeable to the Parish, for the first offence to be sent to the house of correction one year, for the second offence to be sent to the house of correction, and to remain there (as aforesaid) till she finde sureties for the good behaviour, and not to offend so again, 7 *Fac. c. 4.*

Any able to work, and threatening to run away, and leave their families upon the Parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the Parish, or to be sent to the house of correction, 7 *Fac. c. 4.*

Master of the house of correction quarterly at the Sessions must yield account of such as have been committed, or is to be fined by most of the Justices, 7 *Fac. c. 4.*

If any committed become troublesome to the countrey by going abroad, or escape without lawful delivery, the master is to be fined by most of the Justices at the Q. Sessions, 7 *Fac. c. 4.*

Hunting.

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All penalties not limited by the statute 4 Jac. 4. shall be paid to the Treasurer, and accounted by him, 7 Jac. c. 4.

Vide plus Poor people.

Hunting.

One Justice of Peace, upon information of any unlawful hunting of Deer or Conies by night, or with painted faces, or other disguising in forest, park, or warren, may make warrant to the Sheriff, Constable, Bayliff, or other officer, to take the party suspected, and to bring him before him, or some other Justice, to examine him thereof; and if he conceal the hunting, or any offender with him therein, the concealment is felony in the concealer, but the truth confessed is but fineable at the next Q. Sessions, 1 H. 7. c. 7. Lam. 191. Dal. 180.

To disobey such a warrant, or make rescous thereupon, so that execution of that warrant be not had, is felony, 1 H. 7. c. 7. Dal. 75.

The Justice of Peace that taketh examination of the offender for unlawful hunting in parks, &c. may after the examination bind the offender to his good behaviour, to the end he be forth-coming till the offence and the offender be lawfully examined, Dal. 75, 76.

Unlawful hunting by three or more will prove a riot, Dal. 76.

Any by night or day wrongfully entring in- to any inclosed ground, kept for keeping of Deer or Conies, and there chasing or killing of them, upon conviction to be imprisoned three months without bail, and there to continue

continue till he pay treble damages and costs to be assessed by the Justices before whom he is convicted, or pay to the party grieved ten pound for Deer at the election of the party grieved, 7 *Fac. c. 13.* and find sureties for his good behaviour for seven years, 3 *Fac. cap. 13.* 7 *Fac. c. 13. Lam. 449.*

The party grieved or the Justices of Peace, upon satisfaction of the party grieved, and confession of his offence, and that he is sorry for the same, in open Sessions, may release the offender of his bond for the good behaviour, 3 *Fac. c. 13.*

The statute, 3 *Fac. c. 13.* doth not punish offenders in parks or inclosed grounds made after the statute, without the Kings licence, 3 *Fac. c. 13.*

Enquiring, hearing, and determining of offences against the Statute, 3 *Fac. c. 13.* may be made by the Justices of Peace and Gaol-delivery at the Sessions, and they may award process upon indictments, informations, bills of complaint, or other actions wherein no essoin, &c. 3 *Fac. c. 13.*

Any not having lands of inheritance in his own or wives right of the clear yearly value of 10 li. or for term of life of 30 li. *per annum*, or goods to his own use worth 200 li. keeping Greyhound to course Deer or Hare, except the son of a Knight or Baron of Parliament, or son and heir of an esquire, upon conviction by confession or oath of two witnesses before two Justices of Peace, where the offence is committed, the party apprehended to be imprisoned three months without bail, except

except he presently pay to the Churchwardens where the offence was committed, or party apprehended, 40 shill. to the use of the poor of the said Parish, 1 *Fac.c.27.*

Any having lands in fee-simple, or fee-tail of 100 li. *per annum*, finding any not having lands of 40 li. *per annum*, nor worth 200 li. in goods, to use any gun, bow, dogs, or engines for killing of deer or hare, except parker or warrener, or owners of either of them, or other grounds inclosed for deer or conies, that shall be yearly worth 40 shil. may take any their guns, bows, engines and dogs, and keep them to his own use, 3 *Fac.c.13.*

Lay person not having in lands 40 s. *per annum*, spiritual person a benefice not 10 li. *per annum*, keeping dogs to hunt, or using ferrets, &c. shall be imprisoned for a year, 13 R. 2.c.13. *Vide Parks.*

Hundred.

Hundred with the liberties therein to be equally taxed by two Justices of Peace, one to be of the *Quorum*, in or neer the hundred, for relief of those that are robbed, 27 *Eliz. cap.13. Dal.132,299.*

The robbed shall not have his action upon the statute of 27 *Eliz.c.13.* except he first with all speed convenient give notice of the robbery to some inhabitant neer the place where he was robbed.

2. Commence his suit within a year next after such robbery committed.

H

3. He

3. He being examined upon his oath within 20 days next before such actions brought by one Just. where the robbery was committed, dwelling neer to the hundred, if he knew the robbers, or any of them.

If he knew any of the robbers before such action, he shall be bound before the said Justice to prosecute the offenders effectually by indictment, or otherwise by course of law, *Dal.* 131.

The hundred must answer the loss, if the robbers be not taken within 40 daies, *Dal.* 131, 299. *Cro.* 179. a. *Vide Robbery.*

A man is slain in the day time out of a town, and the murderer doth escape, the hundred shall be charged therewith, 299.

Jury of one hundred may present an offence done in another hundred, *Lam.* 399.

“ Robbery in a house doth not charge the
“ hundred, though it be in the day-time, *Dal.*
“ 133.

“ Robbery in the night doth not charge the
“ hundred, yet if it be by day-light, though
“ before sun-rising or after sun-setting, the
“ hundred shall answer it, *Dal.* 133. *Coke* l. 7.
“ fol. 6.

“ If upon pursuit, the offenders or any of
“ them be taken, the hundred shall not be
“ charged, *Dal.* 133.

“ If the party robbed take any of the thieves
“ after Hue and Cry made, it excuseth the
“ hundred, *Dal. ibid. Cro.* 179. b.

“ He which is robbed shall not have his action
“ where one of the felons is taken, but if there
“ be

“be no Hue and Cry the village shall be amerced, though one of the felons be taken, *Cro.* 179.b.

Vide plus Hue and Cry.

Hue and Cry.

For the apprehending of homicides, burglars, robbers, and other felons, hue and cry shall be made, and every man shall follow the hue and cry; and he that doth not, shall be attached to appear before the Justices of Gaol-delivery. It seemeth any Justice of Peace may binde him over by the commission, *Dal.* 299. *Cro.* 179.b.

Hue and Cry ought to be made from town to town, from countrey to countrey, by horsemen and foot-men, 13 *Ed.* 1. c. 12. 27 *El.* c. 13. *Dal.* 75. *Cro.* 178.b. 179.a.b. otherwise it is no lawful pursuit to arraign a felon.

Upon committing of any robbery or felony, the Officer of the town where it was done ought to send hue and cry to every town round about him, *Dal.* 75. *Cro.* 178.b. nu. 2.

Every Justice of Peace may cause hue and cry, fresh suit and search to be made upon any murder, robbery, theft, or other felony committed, by force of the first *assignavimus*, *Dal.* 49, 75. *Lam.* 185.

By a false hue and cry to enter into any house with the Constable, to binde and rob the Constable and master of the house in the night, is burglary, *Dal.* 257. *Cro.* 32.b. nu. 24. *Lam.* 263.

Vide plus Robbery.

“ The inhabitants of any hundred (either
 “ within the county wherein the robbery was
 “ done, or in any other county wherein de-
 “ fault shall be of fresh suit after hue and cry
 “ made) shall satisfie the moiety of such money
 “ as shall be recovered against the hundred
 “ where the robbery was done, *Dal.* 132.

“ In levying hue and cry it is necessary to
 “ give notice of the thing stollen, as horse, &c.
 “ of the colour and special marks ; so of the
 “ theeves person, apparel, &c. to search suspe-
 “ cted places, and to take suspicious persons,
 “ and bring them before a Justice of Peace to
 “ be examined, *Cro.* 178.b.

“ If any raise hue and cry without cause, he
 “ shall be attached for disturbing the Peace,
 “ *Cro.* 179.a.

Jesuites and Seminary Priests.

A Ny Justice of Peace within the county in
 which any Jesuite, Seminary Priests, or
 other Priests, Deacons, religious or Ecclesia-
 stical person shall arrive or land, may within
 three daies after take the submission, oath, and
 acknowledgement of him touching his obedi-
 ence to the King and laws provided in cases of
 religion, 27 *El.* c.2. *Lam.* 198. *Dal.* 104.

Every one understanding that any such
 Priest, &c. shall be within any of the Kings
 dominions, ought to discover the same to some
 Justice or other superiour officer within ten
 daies after such knowledge, under the pain of
 fine and imprisonment ; and the Justice with-
 in

Jesuites & Seminary Priests. 149

in 28 daies must give information thereof to one of the privy-Council, on pain of 200 marks, 27 *El.c.2. Lam.198. Dal.104.*

Two Justices of Peace of the County where any of the Kings Subjects that are no Jesuites, &c. brought up in any Colledge of Jesuites, or in Seminaries, shall arrive within six moneths after proclamation made to that end, may within two daies after their return take their submission under the oath of supremacy, 1 *El. 132. 27 El.2.*

To receive Jesuites or Seminary Priests, contrary to the statute, is felony, *Lam. 414. 27 El.c.2.*

Any within three daies after the offence committed, discovering to any Justice of Peace, any Recusant, Seminary, or Popish Priest, or any Mass to have been said (any of them then present there,) if by reason of his discovery, any offender be taken and convicted, he shall be freed from the danger of the offence, and have the third part of the forfeiture by such offence, 3 *Jac.c.5. Lam.199. Dal.106.*

Imprisonments, *vide* Prison.

Indictments, *vide* Enditements.

Information.

Information against a felon, whether it shall be taken by oath or no, is uncertain, but *Lamb.213,214,215.& Dal.307.& Cro.194.a. nu.5.* do best allow it by oath, and so do divers Judges in their circuits.

No process can be awarded upon information of a private person, unless where the statute

particularly warranteth inquiry by information, as the statute of 5 *Eliz. c. 4.* of labourers, 5 *Eliz. c. 21.* of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Justice of Peace : so much thereof as is material he must put in writing within two daies after the examination, *Lamb. 212. 2 & 3 Ph. & Ma. c. 10. Dal. 303.*

Two inform against another in matter of felony, and do vary in their tales, *viz.* in the day and place when and where it was committed ; such information is not to be credited, *Dal. 303. Cro. 100. a.*

The bringer of the suspected will not inform, it is meet to binde him over to give evidence, *Dal. 206.*

Form of a recognizance for the informer against a felon, *Lam. 214, 216.*

“ It is not necessary in an information for
“ the King to recite the statute upon which the
“ Bill is framed, but to say *contra formam statu-
“ tuti in hujusmodi casu editi & provis,* *Cro.*
“ *104. b. nu. 50, 53.*

Informers and Promoters.

Informer compounding for any offence against a penal law, without consent of some of the Courts of Westminster, or willingly delaying or discontinuing a suit, loseth 10 pound, and is to stand in the pillory being convict thereof at the Quarter Sessions, 18 *El. cap. 5. 27 El. c. 10. Lam. 439, 609.* the same to be heard at the Quarter-Sessions.

“ All actions for any offences against any
“ penal statute, shall be commenced in the
“ County

Informers & Promoters. 151

"County only where the offence was committed, and upon the defendants pleading "*Nihil debet*, or Not guilty, the plaintiff must prove, 1. the offence, 2. to be done in the county, 21 *Jac.c.4.*

"No officer shall receive, file, or enter of record, any information, Bill, &c. until the informer hath taken his oath before some Judge of that court, that the offence was done in the same county within a year before the information or suit, 21 *Jac.c.4.*

Ingrosser.

Ingrosser is he that by any contract (unless by grant of land or tithe,) buyeth corn on the ground or other dead victuals, to the intent to sell them again, except buyers of barley or oats, to make malt or oat-meal. Victuallers not forestalling, Badgers and Drovers not abusing their lawful licence, buyers of foreign commodities, except fish and salt, are excepted, 5 *Ed.6. c.14.* 5 *El.c.12.* 13 *El.c.25.* *Lam.451.*

In-holder.

In-holder taking any thing for litter, or excessively for hay, or above a half peny a bushel above the market for oats, loseth four times the value of the overplus, 13 *R. 2. c.8.* 4 *H.4.c.25.* *Lam.473.* repealed by 21 *Jac.c.21.* *Vide plus* Horse-bread.

In-holder or Alehouse-keeper may be compelled by a Constable to lodge strangers, *Dal.28.*

H. 4 In-holder

In-holder that suffereth a non-inhabitant to tipple in his house, shall incur the penalty limited, 1 *Fac.c.9.* 1 *Car.c.4.*

In-keeper, Taverner, Victualler, is within the statute, 1 *Fac.9.c.4.* *Fac.c.5.* 1 *Car.c.4.*

Inmates, *vide* Cottages.

Inrolment.

One Justice of Peace may join with the Clark of the Peace in taking of an inrolment of an indenture of bargain and sale of lands, &c. lying in the same county, and either of them is to have 12 pence if the land exceed not in value 40 shillings a year; and if it do, then 2 shillings 6 pence apiece; and taking above, fined, 27 *H.8.c.16.* *Lam.196,369,393;436.*

Issues.

The Sheriff that gathereth other estreats of issues then of right are due, forfeiteth 5 marks to the King, as much to the party, 27 *Eliz.c.7.* *Cro.201.3.* *Lam.432.* Forfeitures of issues by Jurors are to be levied by Records of execution awarded by the Justices of Peace, 27 *Eliz. cap.7.* *Lam.585.*

Judgement.

Ambiguity arising in judgement betwixt the Justices of Peace, they shall forbear to proceed till the Judges come; but if they will proceed, the judgement is not void, but must be reversed, *Lam.568.* the commission it self.
Where

Where the statute appointeth a punishment, there judgement must be according to the statute, *Lam. 570.*

Upon trespasss, riots, and such other offences, where no forfeiture is prescribed, judgement is to be taken and ranlomed, *Lam. 570.*

Vide plus the several offences.

Juglers, *vide* Licence.

Jurors.

Jurors both for enquiry and trial, ought to be *Probi & legales homines*, *Lam. 396.*

What persons may not be Furors, and being Furors make presentments void, unless there be twelve besides.

1. Attainted in conspiracy, 2. Attaint, 3. *Decies tantum*, 4. Subornation of perjury, 5. Concealment they be not *probi*, and their presentment void, unless there be twelve besides them that are not blemished, *Lam. 396.* 6. Outlawed, 7. Abjured, 8. Condemned in a *Præmunire*, 9. Attainted of treason, 10. Felony, &c. *ibid.* 11. Women, 12. Infants under 14 years of age, 13. Aliens, 14. Clergy-men, *ibid.*

Jurors must be inhabitants or free-holders within the County, to the value of 40. shill. *per annum*, but in Cities and Boroughs to the value of forty shillings in goods, *Lam. 396, 397.*

¶ Jurors for trial of an indictment within

the County Palatine of Lancaster must have 5 pound per annum, *ib.*

Juror 70 years old or decrepit returned by the Sheriff must serve if the Justices will ; but he may sue the Sheriff upon the Statute of Westminster 2. c. 38. Lam. 397.

Juror exempted by Charter with these words *Licet tangat nos*, is to be discharged upon his appearance, but he ought to shew it to the Sheriff, *ibid.*

When there is want of sufficient Jurors, no exemption can discharge, *ibid.*

Presentment is good though some of the Jurors be allied to him that procureth the presentment : but it is no discretion in the Justices to suffer any such to be impanelled, Lam. 398.

If the particular Juries for the hundred cannot be supplied by those of the hundred, it is better to take *Tales de circumstantibus* of other hundreds, then to be renewed with a *Tales* from Sessions to Sessions, Lam. 398.

Jury of one hundred may present an offence done in another hundred, Lam. 399.

Justices may command the Sheriff to alter the panel, and he refusing forfeiteth 20 pound, *ibid.* 3 H.8.c.12.

All the Jurors must be sworn, otherwise their presentments are void : but the Record being that all the Jurors were sworn, the presentments are good though all be not sworn, Lam. 399.

Juror after he is sworn, upon cause may be removed by the Justices, Lam. 400.

Jury after swearing adjourned to another time, may be then sworn again, *ibid.*

Jurors

Jurors and Juries. 155

Jurors of enquiry must be twelve, but there may be more, and it is best to have them odd, *Lam.* 400.

If twelve Jurors do agree, the residue cannot gain-say, *ibid.*

Juries of enquiry ought not to be committed to a keeper, nor kept without victuals, nor carried out of the town, but may be adjourned to another place to give up their verdict, *Lam.* 400.

Jurors which do wilfully conceal offences presentable, and which be complained of by bill, may be enquired of by persons whereof every one may dispend forty shillings *per annum*; and such concealment being found within a year after, every Juror shall be amerced in open Sessions, 3 *Hen.* 7. c. 1. *Lam.* 400, 401.

Jurors that discover what they have done, are to be fined, *Lam.* 402.

Juror taking any thing to make a favorable presentment, shall be imprisoned and ransomed, *Lam.* 441. *Cr.* 84. a. 5 *Ed.* 3. c. 10.

No Juror to be returned without an addition whereby he may be known, 27 *El.* c. 7. *Lam.* 432.

Vide plus Challenge.

Justices of the Peace.

Justices of Peace were created, 1 *Ed.* 3. c. 15. *Dal.* 6. *Lam.* 20.

Justice of Peace is Judge of Record, *Dal.* 17. *Cr.* 120. a. nu. 1. *Lam.* 62.

He may take a recognizance of Peace, which none can do but a Judge of Record, *Dal.* 8. *Lam.*

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Lam. 186. Crom. 196. a. num. 1.

His warrant is not disputable by the Constable, but it is to be understood when the Justice of Peace hath jurisdiction of the cause, *Dal. 8. Cro. 147. b. Lamb. 65, 91.*

His testimony in some cases is of as great force, and in some cases greater then an indictment of 12 men upon oath, as in the cases of force, riots, presentments of high-waies, *Dal. 9, Lam. 65.*

The authority granted to Justices of Peace by commission doth determine by death of the King, or at the Kings pleasure. As to be discharged by Writ under the great Seal. 2. By *Supersedeas*. 3. By granting a new commission and knowledge thereof, *Dal. 11. Crom. 188. a. Lam. 69.*

2. By publishing the new commission at Assizes or Sessions, or any County Court.

3. By holding open Sessions by virtue of the new Commission, *Dal. 11. Cro. 188. a. Lam. 69.*

4. " By accession of another office, as being " Sheriff or Coroner of the County, *Cro. 121. nu. 13, 14.* but so doth not the addition of a " greater name of dignity, as Knight, Serjeant " at Law, *Cro. 188. a.*

Exercising the office of a Justice of Peace before oath taken, is fineable, *Dal. 15, 352.*

Justice of Peace hath not authority but in the County where he is Justice, *Dal. 23.*

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or Felony, *Dal. 23. Cro. 120. b. nu. 12.*

Justice of Peace is not to intermeddle in any City

Justices of the Peace. 157

City or Corporation which have their proper Justices, *Dal.* 23. *Crom.* 8. a. nu. 30. 181. b. 189. a. *Lã.* 47. *Cro.* 121. a. nu. 20. 1. & 2. *P. & M. c.* 18.

Justices of P. ought not to execute their offices in their own case, *Dal.* 352. *Cro.* 68. a. nu. 4. Yet a Just. of P. being assaulted, may comit the offender to prison, *Cro.* 68. a. *Lam.* 134. *Dal.* 352.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his own possession, and commit the offender, *Cro.* 67. b. 68. a. nu. 4.

Justice of Peace chargeth one that maketh an assault or affray, to keep the peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour, *Dal.* 195.

Justice of Peace must proceed by the prescript of the commission and statute, *Dal.* 20.

Where the statute referreth the trial, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath, *Dal.* 22, 155.

One Justice of Peace ought not to bind one to appear at the Quarter Sessions, to answer his fault committed against a penal law, except the stat. of Labourers, *Lam.* 187. *Dal.* 339.

Every Justice of Peace is a conservatour of Rivers within his County, *Lam.* 189.

Justice of Peace not giving remedy to the party grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of Assize, or the Lord Chancellour, is to be put out of commission by the Lord Chancellour, and punished according to his desert, 4 *H. 7. c.* 12. *Lam.* 370. *Cro.* 120. b. nu. 6. *Dal.* 353.

One Justice of Peace may command fresh suit,

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suit, hue and cry, and search to be made by officers and others, after thefts, robberies; injoin watches for the arresting of suspected persons and night-walkers, high-waies to be enlarged, that two Constables be chosen in every Hundred; forbid Fairs and Markets in Churchyards, command all between 15 and 60 to be sworn to the peace, charge the Constable to arrest all such as be suspected to be draw-latches, wasters, or robbers of men, *Lam.* 185.

Justice of Peace taking bond in his own name, and not *Domino Regi*, in a cause touching the King, is to be imprisoned, 33 *Hen.* 8. c. 39. *Lam.* 102, 143.

Justices of Peace at their Sessions are of equal authority, *Lam.* 385. *Vide Cro.* 122. a. nu. 33.

Justice of Peace must send his prisoners to the common gaol, *Lam.* 133. 5 *H.* 4. c. 10.

A felon is brought before a Justice of Peace upon suspicion: though it appear to the Justice he is not guilty, yet he may not set him at liberty, but so as he may come to his trial, *Lam.* 283. *Dal.* 279, 304, 353. *Cro.* 40. b. nu. 20. otherwise it will prove a voluntary escape in the Justice; for he is not to be delivered by any mans discretion, *Dal.* 8. *Lam.* ut *supra*.

A man is arrested for felony by a Constable or other, who afterwards hath knowledge that there is no such felony done, the opinion of *Keble*, *Comsby*, and Serjeant *Frowick* was, that he might set him at liberty: but if one be killed, and another be arrested for suspicion, though after he know the arrested is guiltless, or was arrested for malice, he ought not to set him at liberty, but must be delivered by course of

Justices of the Peace. 159

of law, otherwise it is felony, *Cro. 40. nu. 20. b.*

“ Justice of Peace dwelleth, or is in another
“ county, he cannot cause one to be brought be-
“ fore him out of the county where he is Justice
“ into another county, *Da. 23. Cro. 120. b. nu. 12.*

What things Justices of Peace ought to doe ex officio.

Record a demurrer upon the evidence, *La. 539.*

Give day to the party to bring in a Record
that is before other Justices, which is pleaded by
way of justification, *Lam. 539.*

If thinking an enditement to be void, they
have discharged the prisoner, paying his fees ;
yet (upon change of their opinion) they may
stay him any time before judgement, *Lam. 540.*

Justices of Peace ought not to suffer the King
to be disadvantaged, if they may lawfully pre-
vent it, *Lam. 540.*

In absence of the Kings Atturney, the Justi-
ces of Peace may take issue with one that plead-
eth a pardon, that he is one of the parties excep-
ted, *Lam. 540.*

Justices of Peace cannot acquit felons by
proclamations ; but if no prosecution be, they
are to keep them till the coming of the Justices
of gaol-delivery, *Lam. 550.*

Justices of Peace may enquire of all manner
of felonies at the common law, or given by
any statute, and of all manner of trespasses
done against the peace of the King, and of such
trespasser wherein action of the case will lie for
trespass or deceit ; for in the end of the Writ
grounded upon the case, it is contained *con-
tra pacem nostram*, *Cro. 8. a. nu. 25.*

“ Justice

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“ Justice of Peace shall be punished for con-
 “ spiring with another to indict a stranger at
 “ the Sessions : but not for a thing done by
 “ him in Sessions as a Judge, *Cro. 122. a. nu. 32.*

One Justice of Peace rebukes another ; nei-
 ther he, nor any of his fellow Justices, can com-
 mit him, for all are by one authority ; and
 therefore hath no remedy if the King will not
 remove him ; but if one Justice abuse another in
 open Sessions, it seems the rest may binde him
 to the Peace, *Cro. 122. a. nu. 33. 134. b. Lam. 385.*

Defaults against the statute 3 *Hen. 6. c. 11.*
 for levying of wages for Knights of the shire,
 are to be heard and determined by enquiry
 for the King, or action for the party before the
 Just. of Peace, *Lam. 512.*

“ Justice of Peace needs not shew his com-
 “ mission, by which he is made Justice, when
 “ he justifieth the doing of any thing as a Ju-
 “ stice ; for he is Justice of Record, and the
 “ commission remaineth with the *Custos rotu-*
 “ *lorum* of the said County, and he is called by
 “ the commission in open Assizes and Sessi-
 “ ons, *Cro. 120. b. nu. 13. Lam. 387.*

“ Justice of Peace hath a Record in his
 “ hands, and is discharged of his office, he
 “ cannot certifie the same without a Writ of
 “ *Certiorari*, although he be made Justice af-
 “ terwards, *Cro. 121. a. nu. 15. & 132. a.*

“ Justice of Peace may have his action of
 “ the Case against him that calleth him *False*
 “ *Justice of the Peace*. It seemeth also that he
 “ may be indicted : for they may enquire of all
 “ trespasses, where a man may have his action
 “ of the Case, *Cro. 121. a. nu. 21. & 122. a. nu. 29.*

“ *Quicquid*

" *Quicquid Justiciarius fecerit de Recordo,*
 " *ignoranter & pro defectu scientiæ, non erit pro*
 " *eo punitus. Sicut accidit de Seneschallo liber-*
 " *tatis Abbatis de Crowland, qui colore libertatis*
 " *de Infangthefe, judicavit hominē mori contra*
 " *legē: pro eo libertas seista fuit in manus Regis,*
 " *& nulla pœna Seneschallo, Cro. 121. b. nu. 24.*

" *Justiciarius non potest puniri pro re per ipsū*
 " *facta judicialiter: sed Officarii, ut Vicecomes,*
 " *& alii Officarii de Recordo erunt puniti,*
 " *Cro. 122. a. nu. 28.*

" Just. of P. certifieth into the Kings Bench,
 " that such a man broke the peace in his pre-
 " sence, the party shal be put to his fine without
 " any Traverse to the same, *Cro. 132. a.*

" Just. of P. who is of the *Quorū*, ought to be
 " resiant within the County where he is Just.
 " of the *Quorum*, 2 H. 5. c. 4. *Cro. 122. a. nu. 34.*

" Justice of Peace was put out of Commis-
 " sion in *Camera Stellata*, for that he refused to
 " take surety of the peace of one that came be-
 " fore him, who offered to find surety of the
 " peace; for that the Justice which granted the
 " warrant was not his friend, and thereupon
 " would not go before him to be bound, *Cro.*
 " *Jurisd. of Courts, 31. b.*

" One Just. of P. upon his view of forcible
 " detainer may record the same by 15 R. 2. c. 2.
 " but in case of Riot or Rour, &c. there must
 " be two Just. of P. with the Sheriff or Under-
 " Sheriff, 13 H. 4. c. 7. *Cro. 61. b. nu. 9.*

" Justice of Peace commandeth one upon
 " pain of 10 li. by his precept, to be at the
 " next Q. Sessions, and he appeareth not: No
 " *Scire facias* shall go forth more then if
 " there

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“there had been a *subpœna*: but it seemeth
“that he shall be attached to be at the next
“Sessions, upon a contempt, *Cro. 123. a. nu. 9.*
“An affray is made within a Corporate
“Town, whilest the Sessions be held there,
“and that Town hath Justices within it self;
“the Justices of Peace shall not intermeddle
“there: but otherwise it is at the Assizes, *Cro.*
“146. b.

Labourers and Servants.

ONE Justice of Peace may cause all artificers and other persons meet to labour by his discretion, to work by the day in hay and corn-harvest time, or imprison the refusers in the stocks for two daies and one night, *5 El. c. 4. Dal. 77. Lam. 475.*

The Constable refusing to stock them, loseth 40 shill.

One Just. of Peace under his hand and seal may licence labourers in hay and harvest time to go into another country to work, *Dal. ibid.*

One Justice of Peace upon complaint may compel meet persons to be bound as apprentices to husbandry, or any other art, &c. and for refusal commit them to ward, there to remain untill they be bound to serve according to the statute, *Dal. 77. 5 El. c. 4.*

One Justice of Peace may take order betwixt the master and apprentice: for want of conformity in the master, bind him over to the Quarter Sessions, where four Justices, one being of the Quorum, may discharge the apprentice:
and

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and if fault be in the apprentice, inflict due correction, *Dal. 78.* but if the first Justice find fault in the apprentice, *quare* if he may by 7 *Jas. c. 4.* send him to the house of Correction, as an idle disorderly person, *Dal. 78.*

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure within his term, *Dal. 79. 5 Eliz. c. 4.*

But an apprentice must be discharged by four Justices of Peace in open Sessions, *ibid.*

One Justice of Peace may command vagrant persons to prison, if they will not serve, *Dal. 81.*

One Justice of Peace may make his Warrant to attach a servant departing, to be at the Sessions, or may send him to the house of Correction, *Dal. 78.*

Two Justices of Peace, upon complaint that a servant departed before the end of his term (except 1. cause be allowed by one Justice of Peace; or 2. at the end of his term, without one quarters warning before two witnesses; or 3. hath refused to serve for the wages appointed by proclamation, according to the statute; or 4. hath promised to serve accordingly, and doth not) may examine the matter, and may commit without bail such faulty person till he be bound to serve and continue, and then he is to be discharged without fee to the gaoler, *Dal. 79. Lam. 330.*

Two Just. of the P. may imprison the master for 10 daies without bail, and the servant for 21 daies, that giveth or taketh greater wages then are allowed by statute, *Dal. 80. Lamb. 330. and the master loseth 5 li. 5 El. c. 4.*

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All retainer, promise, or paiment of wages, or any other thing contrary to statute, and every writing and bond for the purpose is void, *5 El.c.4. Dal.79.*

Two Justices of Peace may imprison for a year or less any servant, workman, or labourer, that doth make assault or affray upon his master, or any that hath the charge or oversight of them, or of the work, being proved by the confession of the party, or oath of two. *Dal.79.*

Or the Justices at the Sessions may inflict other punishment.

One Justice may binde the offender to the good behaviour, and so to the next Sessions, *Lal.79. Lam.330. & 473.*

Two Justices may compell any woman of the age of 12 and under 40 being unmarried, to serve by the year, week, or day, for such wages as they shall think meet, or commit her to ward till she be bound, *Dal.80. Lam.330,331.*

The retainer of any to serve in the arts of clothing, Wooll-weaver, Tucker, Fuller, Cloth-worker, Sheerman, Dier, Hosier, Tailor, Shoemaker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Capper, Hat-maker, Felt-maker, Bowyer, Fletcher, Arrow-head-maker, Butcher, Cook, or Miller for less then a year, is void, *5 El.c.4. Lam.473. Dal.79.*

“ No person shall interrupt, deny, let or disturb any free or rough Mason, Carpenter,
 “ Bricklayer, Plaisterer, Joyner, Hard-hewer,
 “ Sawyer, Tiler, Pavier, Glasier, Lime-burner,
 “ Brick-maker, Tile-maker, Plumber, or Labourer born in the Realm, or any Deni-
 “ zon,

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“zon, to work in any of the said crafts, in any
“City, Borough, or Town Corporate, with
“any that will retain him or them, though
“they doe not inhabit or be free there, upon
“pain of 5 li. the one moiety to the King, the
“other to the Informer, 5 *Ed.6.ca.15*.

Any unmarried, or under thirty years and married, are compellable to serve in any of the said arts, or to be imprisoned until they will serve, 5 *El.c.4*. upon request of any person using the said trades, except the person be lawfully retained with some other, or have 40 shillings *per annum* in lands, or 40 pound in goods, or some farm in tillage, *Lam.473. Dal.79*.

None retained in husbandry to depart at his time into any other limit, town, or parish, without testimonial, on pain of 21 daies imprisonment, and to be whipped, if then he brings none; and receiver of such loseth 5 li. *Lam.474. Dal.85*.

Labourers not working so many hours as they ought, lose 1 d. an hour, *La.474. 5 El.c.4*.

Servant falling sick, or *non potens corpore*, the master may not put him away, nor abate his wages, *Dal.84*.

Any taking work by great, and departing unlawfully before the work be finished, loseth 5 pound, and is to be imprisoned for a month, *Lam.474. 5 El.c.4*.

Any taking an apprentice contrary to order of law, or exercising an art not being apprentice therein 7 years, loseth 10 pound, 5 *El.c.4*. *Lam.475. Cro.83.a*.

Servant departing into another shire, is indicted for it in the County whence he departed;
ted;

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ted; the Justices of Peace may award a *Capias* to the Sheriff of that shire whereunto he departed, returnable before themselves, 5 *El. c. 4. Lam. 525.*

The sufficiency of the cause of the masters putting away of his servant, or the servants departing from his master within his term, must be proved at the Q. Sessions, *Lam. 610. 5 El. cap. 4.*

Household servant spoileth the goods of his deceased master, and after proclamation in the Kings Bench maketh default of appearance there; it is felony, but not enquirable by the Justices of Peace, 33 *H. 6. c. 1. Lam. 281, 548. Dal. 266.*

A man not able nor sufficient to keep a servant, doth retain a servant; such retainer is void, *Dal. 82.*

Retainer of a servant in husbandry without expressing any term, shall be for one year, *Crom. 184. a. Dal. 83.* it is according to the statute, 5 *El. c. 4.*

One retaineth a servant for 40 daies, and afterwards another retaineth him for a year; the first retainer is void, *Cro. 184. a. Dal. 83.*

A servant cannot be discharged by his master without his own agreement, or for some cause allowed by a Justice of Peace, *Dal. 84.*

An apprentice cannot be discharged by his master but by writing, for an apprentice cannot be but by writing, *Dal. 85. Crom. 184. b. 185. b.*

A servant put away shall have his proportional wages for the time he served, but it must be by the help of a Justice of Peace, *Dal. 84.*

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A servant of his own accord departing from his service, loseth all his wages, *Dal.84.*

A servant refusing to doe his service, it is a departure in law, though he stay still with his master, *Dal.84.*

Detaining of wages, or of meat and drink, is good cause of departure, but to be allowed by a Justice of Peace, *Dal.84. Cro.185.a.*

A woman married after she is retained, must serve out her time, *Cro.184.b. Dal.82.*

No servant in husbandry, artificer, or victualler, nor any labourer shall carry any buckler, dagger, or sword, on pain to forfeit the same, but for defence of the Realm, or travelling with their master, or about their masters business, *12 R.2 c.6. Cro.185.b. 76.b.*

Any two Justices of Peace may give their consents with the Churchwardens and overseers, or the greater part of them, to bind as apprentices the children of poor parents, till the age of the man-child of 24, and of the woman till 21, *39 El.3. Lam.331.43 El.c.2. Dal.83.*

Retainer according to statute, though no wages be spoken of, is good, and shall have wages according to the proclamation, *Dal.84.*

Retainer not being according to statute, is void, except it be by Indenture, *Dal.84.*

Retainer upon condition is good, *Dal.84.*

Retainer without expressing in what office, is good, *Dal.84.*

Retainer for life is good, *Dal.84.*

Retainer for a year to serve when he shall be required, is not good, *Dal.84.*

By Retainer the servant is presently in service

vice, though he come not into his masters service indeed, *Dal. 84.*

The executor (the master dying) must pay wages to the servant hired according to statute; not otherwise, except it be by Indenture, *Dal. 84.*

Larceny.

Larceny is the felonious and fraudulent taking another mans personal goods, removed from his body and person, without his will, to the end to steal them, *Lam. 272. P.R. 129.*

Personal goods are { Wholly ano- } Dead,
thers { Alive,
His own, yet also a
property in another.

Dead goods, { In their own nature chattels, as
mony, plate, household-stuff, *Lamb.*
273. wooll severed from the sheeps
backs, to take the skin and leave the
body, the flesh of tame or wild fowl
or beast, *Lambert 275.* goods of the
Church, Parish, or of an unknown
person, *Lam. 276.*

Once no chattels, and made chattels by the owner, as mowed corn, mowed hay; wood felled, apples gathered, &c. *Lam. 276.*

Alive, { Tame, as horses, beasts, sheep, swine,
pullen, *Lam. 273, 274.*

{ Wild, and made tame by { Art,
Restraint
of liberty.
By

By art, as } A tame deer by common law,
 } *Lam. 274.*
 } By statute a falcon, tarcelet, lan-
 } ner, lanneret, lost without bringing
 } it to the Sheriff to be proclaimed,
 } *Lam. 274.*

By restraint of their liberty, as yong pige-
 ons, yong herons, yong hawks out of their
 nests, fish in a trunk, stew, or pond, *Lam. 274.*

A mans own goods, } Where he hath given a special
 } property to another, as by bailment,
 } pawning, &c. and feloniously taketh
 } it again, *Lam. 277. Dal. 270.*

Where one coming lawfully to
 the possession, by lending altereth
 the property, as by melting of bor-
 rowed plate, and the lender taketh
 the metal feloniously, *Lam. 277.*
Dal. 270.

*In what goods Larceny cannot
 be committed.*

In goods of } Profit,
 } Pleasure.

Goods of profit, as where is } An owner: & they are } Real.
 } } Personal.
 } No owner, as treasure-trove,
 } wrecked, strayed, *Lam. 276.*

Real are } Distinct from the free-hold, as
 } charter of land or a ward, *Lam. 275.*
 } Annexed to the free-hold, as
 } apples on the tree, a tree growing,
 } lead from a house or from a Church,
 } *Lam. 276.*

Personal, as wild things using their wildness, as pigeons flying, hawks not reclaimed, fishes in the river, *Lam.* 274. pheasants, partridges, hares, conies, herons, swans, or deer that are abroad, *Lam.* 275. *Dal.* 270.

Goods of pleasure, as dogs, apes, parrots, singing birds, a diamond, ruby, or other stone not set in gold or silver, *Lam.* 275. *Dal.* 269.

Grand larceny,

Larceny is

Petty larceny.

Grand larceny is, where the thing stolen is above the value of 12 pence, and is punishable by death, *Dal.* 262.

Petty larceny, if the thing stolen exceed not 12 pence, and is punishable by the discretion of the Justices before whom he is arraigned, and forfeiteth his goods, *P. R.* 129. *Dal.* 262.

Divers petty larcenies put in one indictment, and above the value of 12 pence, are punishable by death, *P. R.* 129. *Lam.* 273. *Dal.* 263.

Divers found guilty of one larceny above 12 pence, they all must die for it, for that felony is several in law, even as those others were severed in act, *Lam.* 273. *Dal.* 263.

What acts do amount to larceny.

To carry away the plate delivered to me in a tavern to drink in, *Lam.* 278. *Cho.* 35. b. nu. 4. *Dal.* 263.

To carry those things one is hired to carry, to another place then he was hired, and there

there feloniously to convert them to his own use, *Lam. 279. Dal. 264. Cro. 36. a. nu. 10.*

A servant not being an apprentice to go away with the goods of his master above 40 shill. which were in his custody, *Lam. 279, 280. Dal. 264.*

Carrier to convey away or convert to his own use the goods after they are brought to the place appointed by the owner, *Dal. 264. Lam. 279.*

He to whom the key of ones chamber-door is delivered, openeth the door and taketh away the goods, *Lam. 279. Dal. 266.*

A servant receiving 20 pound in gold of his master to keep, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, viz. money, *Dal. 265. Cro. 50. a. Lam. 280.*

A guest is harboured, who carrieth away his sheets out of his chamber, with purpose to steal them, and is taken in the house, *Dal. 266. Cro. 35. a. nu. 2. Lam. 281.*

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40 shill. or converteth them to his own use, *Dal. 265. Cro. 50. a. Lam. 281.*

A carrier embezels part of the goods committed to his charge, *Dal. 264. Cro. 36. a. nu. 11.*

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof, and goeth away therewith, *Cro. 50. a. Dal. 265, 266.*

A servant taketh away or spoileth the
I 2 goods

goods of his deceased Master ; upon default of appearance in the Kings Bench after proclamation, it is felony, *Dal.* 266. 33 *H. 6. cap.* 1. *Lam.* 281.

Taking an horse feloniously, and apprehended before he get the horse out of the close, *Lam.* 282. *Dal.* 267.

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledge he presently forsake her and his house, *Lam.* 282.

What acts do not amount to Larceny.

One having goods bailed unto him, converteth them all to his own use, *Cro.* 36.a. *nu.* 11.

A Carrier conveyeth the goods to another place then he was hired, and there converteth them to his own use, *Lam.* 278. *Dal.* 264. *Cro.* 36.a. *nu.* 11.

An obligation or wares delivered to a servant, who receiverth the money or sellerth the wares, and runneth away with the money, *Dal.* 265. *Cro.* 35.b. *nu.* 50.a. *Lam.* 280.

A wife stealeth goods in the company of her husband, or by his command ; *quare* if it be without his compulsion, *Lam.* 282. *Dal.* 272.

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larceny in neither, *Lam.* 282. *Dal.* 272.

Goods stollen by an infant under 12. a lunatick during his lunacy, a mad-man, and deaf

deaf and dumb, *Lam.* 282. *Vide Dal.* 273.

Riding away with a lent horse, *Dal.* 264.

A clothier delivereth wooll or yarn to his work-folks, who embezel or sell part thereof, *Dal.* 264.

Goods delivered to another to keep, and he consumeth them, or converteth them to his own use, *Dal.* 264. *Lam.* 278.

So money or goods delivered to one to deliver to a third person, and the first receiver fleeth away with them, or converts them to his own use, *Dal.* 264.

A servant hath a horse delivered by his Master to ride to market, or money to go to a fair to buy cattel or other, or to pay to another man, and the servant goeth away therewith; *quare* if it be felony by statute, *Dal.* 265.

A receiver receiveth his masters rents, and goeth away with them, *Dal.* 266. *Cro.* 50.a.

Leather.

Butcher that gasbeth, slaughtereth, or cutteth the hide of the ox, steer, bull or cow, whereby it is impaired, loseth 20 pence; or that watereth any hide except in June, July, or August, or putteth to sale any putrified or rotten hide, loseth for every hide 3 shill. 4 pence, *1 Jac.* 22. *Lam.* 462.

Butcher using the said craft and also the mystery of tanner, loseth every day 6 shillings 8 pence, *ibid.*

Tanner using also the mystery of a shoemaker, carrier, butcher, or any artificer using

the cutting or working of leather, loseth the hides and skins tanned, *ibid.*

Every person, other then such as had a tan-house 29 *Martii* 1603. and did then occupy tanning of leather, or hath been taught as an apprentice or hired servant 7 years in that mystery, or hath been wife or son of a tanner brought up in this mystery 4 years, or the son or daughter of a tanner, or such as hath married the wife or daughter of a tanner, having left to them his tan-house and fats, that tanneth any leather, or taketh any profit by tanning, loseth all the leather tanned by him, *Lam.* 463, 463. 1 *Fac.* 22.

None may buy, contract for, or bespeak any rough hides or calves-skins, but onely tanners or tawers of leather, except salt hides for the necessary use of ships, on pain of 6 shillings 8 pence for every hide, 1 *Fac.* 22. *Lam.* 463.

None shall forestal any hides coming to fair or market, (except of such as kill for the provision of their house) on pain of 6 shill. 8 pence for every hide, 1 *Fac.* 22.

None may buy tanned leather nor wrought, but such as will convert the same into made wares, (except necks, and shreds of sadlers and girdlers) upon loss of all the leather, *Lam.* 463. 2 *Fac.* 22.

Tanner suffering any hide to lie in the tan-limes till the same be over-limed, or that putteth any hides into the tan-fats before the lime be perfectly wrought out of them, or useth any thing in tanning but onely Ash-bark, Oak-bark, Tapwert, Malt, Meal, Lime, Culver-

Culver-dung, or Hen-dung, or hath suffered his leather to be frozen, or to be parched with the fire or summer sun, or hath tanned any rotten hides, or hath not suffered the hides for outward sole-leather to lie in the woozes twelve months, and for the upper sole-leather nine months, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requisite, or hath put to sale any tanned leather, not wrought according to the statute, shall lose the hides or value of them, 1 Fac. c. 22. Lam. 463.464.

Tanner that raiseth with any mixtures any hides to be converted to backs, bend-leather, clouting-leather, or any other sole-leather, except the same be fit and sufficient for that use, loseth the hides, 1 Fac. c. 22. Lam. 464.

Any that putteth to sale, exchangeth, or otherwise departeth with any tanned leather red and unwrought, being in open fair and market, unless it be searched and sealed in some open fair or market, or putteth to sale any leather not searched and sealed according to the statute, loseth for every hide or piece of leather six shillings eight pence, and also for every twelve calves skins or sheep-skins, three shillings four pence, and also the hides and skins or their value, 1 Fac. c. 22. Lamb. 464.

Tanner putting to sale any leather insufficient, or not thoroughly wrought and tanned, or not well and thoroughly dried, and the same so found by the triers appointed, 1 Fac. c. 22. loseth so much as is insufficient, Lam. 464.

He that setteth his fats in tan-hills or other places where the woozes or leather to be tanned in the same may take any unkind heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth ten pound, and is to stand in the pillory three market-daies, 1 *Jac. cap. 22. Lam. 464.*

Felling oaks meet to be barked where bark is worth two shillings a load, above the charges of barking and pilling, (timber for necessary buildings, and reparations of ships, houses, or mills excepted) but between the first of April and the last of June, loseth every tree or double the value, 1 *Jac. c. 22. Lam. 464, 465.*

Currier that currieth any leather but in his own house situate in a corporate or market-town, or hath curried any leather not well tanned, or not thoroughly dried after his wet season, or hath used in such wet season any deceitful means to corrupt the same, or hath curried any outward sole-leather with any other stuff then hard tallow, or less of that then the leather will receive, or inner sole-leather, or upper leather but with good stuff being fresh and not salt, or hath not liquored them thoroughly, or hath scalded or shaven too thin, or gasht in shaving or otherwise, or not wrought sufficiently any leather, loseth six shillings eight pence, and the value of every skin marred, except gashing in shaving, and for such gashing double as much as the leather is impaired, 1 *Jac. c. 22. Lam. 465.*

Currier

Currier that during the time that he useth currying, useth the feat of a tanner, cordwainer, shoemaker, butcher, or other artificer using cutting of leather, loseth 6 shill. 8 pence each hide, *ibid.*

Currier refusing to curry within 8 daies in summer, and 16 daies in winter, perfectly any leather brought by any cutter of leather, or his servant, bringing with him good stuff for perfect liquoring of the same, loseth 10 shill. for every hide.

Shoemaker that maketh any Boots, Shoes, Buskins, Starrups, Slippers, or Pantofles, or any part of them of English leather wet curried, (other then Deer, Calves, or Goatskins dressed like Spanish leather) but of leather well tanned and curried, or well tanned onely, and well sewed with thred well twisted, waxed, and rosined, with the stiches hard drawn with hand-leathers, without mixing neat and calves leather in the over-leather thereof; or hath put into any shoes, boots, &c. any leather made of sheep-skins, bull-hide, or horse-hide, or into the upper-leather of any shoes, slippers, or pantofles, or into the nether part of boots, (the inner part of the shoes onely excepted) any part of the womb, shank, neck, flank, pole, or cheek of any hide, or into the outer sole other then the best of the ox or steer hide, or into the inner sole other then the necks, womb, pole, or cheek; or in trespwels of the double-soled shoes other then the flanks of any the said hides; or hath put to sale any year between the last of September and the twentieth of
I 5 April

April any shooes, boots, &c. meet for any person above four years old, wherein hath been any dry English leather, other then calves or goats skins dressed like Spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3 shill. 4 pence for every pair, and the just value, 1 *Fac. cap. 22. Lam. 465, 466.*

Every lord of fair or market, that doth not appoint and swear yearly two or three honest and skilful men to be searchers and sealers of leather there, and six honest and expert men to try the same leather, loseth 40 pound, *Lam. 466.* Such triers as doe not their duties therein without delay, lose 5 pound for every default, *Lam. 467.*

Searcher or sealer so appointed, refusing with speed to seal good leather, or allowing insufficient leather, loseth 40 shillings; or receiving any bribe or exacting any undue fee for execution of his office, loseth for every offence 20 pound; or refusing to execute the said office being duly elected, loseth 10 pound, *Lam. 467.*

He that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registering the same, and the price thereof, loseth the value of the leather, *Lam. 467. 1 Fac. cap. 22.*

Steward of a leet cannot grant surety of the Peace, unless it be by prescription; but he may commit him to ward that shall make an affray in his presence whilest he is in execution of his office, or bind him to the peace, or to his good behaviour, *Lam. 14.*

He may also take presentment of an offence against the peace, *ibid.*

"In every leet or market, there ought to be
"a pillory and tumbrel, and for want thereof
"the Lord of the leet or market shall make a
"fine to the King, *Dal. 151. Cro. 149.*

Lent, *vide* Fish-daies.

Liberties and Franchises.

"Liberties and Franchises be such, which
"have return of Writs, and not such as are
"Counties of themselves, as London, York,
"Norwich, &c. nor towns which have by
"grant of the K. Just. of P. so that no other
"Just. do intermeddle, *Cro. 8. a. nu. 30. Dal.*
"23. 2 & 3 P. & M. c. 18.

Justice of Peace may execute his authority within any liberties, not being a county within itself, and it is good, but the liberty may have their remedy against him, *Lam. 47, 48. Dal.*
23. *Cro. 8. a. nu. 30. 181. b. 189. a.*

Libellers.

A man finding a Libel against a private man, must presently burn it, or deliver
it

it to some Magistrate, *Dal.* 195.

If against a Magistrate or publick person, to deliver it to some Magistrate, that by examination the author may be found out, *Dal. ibid.*

Libellers (it seemeth) may be bound to their good behaviour as disturbers of the peace, whether they be contrivers, procurers, or publishers of the libels; for such libelling and defamation tendeth to the raising of quarrels and effusion of blood, and special occasions to the breach of the peace, *Dal.* 194.

Libelling is by scandalous writings, by book, ballad, epigram, or rhyme; 2. by scandalous words, as scoffs, jests, taunts, or songs; 3. by hanging up of pictures or signs of reproach neer the place where the party traduced doth converse most, as gallows, cucking-stool, pillory, horns, or such like, *Dal.* 194. *Cook* 5. fol. 125.

Licenses.

Two Justices of the Peace may licence poor diseased persons to travel to the Baths for remedy of their grief, so as they be provided of relief for their travel, and beg not, 39 *El.* c. 4. *Dal.* 101. *Lam.* 332. 1 *Fac.* c. 25.

Justice of P. dwelling neer where any person having suffered shipwrack shall land, may and ought to make a testimonial under his hand to such persons of the landing, &c. and thereby to licence them to pass the next direct way, to, their place of birth or dwelling.

ling, and limit them a convenient time for their paffage, *Dal.* 100, 127. *Lam.* 303. 39 *El.* 6.4. 39 *El.* c. 17. 1 *Fac.* c. 25.

No Juftice or Juftices of Peace (as it feemeth) can in any cafe licence any poor man to wander, or beg at all, *Dal.* 101, 127. *Lam.* 303. 39 *El.* 4. c. 17.

Convicted for abufing of a licence of transportation of victual, fhall be committed for a year without bail or mainprife, *Lam.* 349. 1 & 2 *P. & M.* c. 5.

Licenfes for badgers, drovers, &c. are to be granted in open Qu. Sessions by three Juft. of P. whereof one of the Quo. and fhall not endure above a year, unlefs the fame be yearly renewed, 5 & 6 *Ed.* 6. c. 14. 5 *El.* c. 12. *Lam.* 610. *Vide* Badgers.

Linen cloth.

He that cauferh to be ufed any racking, beating, or cafting any deceitfull liquor or other means on any kind of linen cloth, whereby it becometh deceitful, or the worfe for ufe, forfeiteth fuch cloth, and is to have imprifonment for a month at the leaft, and to be fined according to the Juftices difcretion, 1 *Elix.* 12. *Cro.* 90. a.

Lying in a way, *vide* Way-laying.

Log-wood, *alias* Block-wood.

Sufpected to have offended againft the ftature for log-wood, upon information to a Juftice

Justice of Peace, the suspect or his servant or work-man may be called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examiners shall be bound over to the next Gaol-delivery or Q. Sessions, and there be judged to forfeit twenty pounds, and pillory one or more market-daies, or upon refusal to be bound to be committed to the gaol till he will be bound, 39 *El.c. 11. Lam. 613. Dal. 48.*

Any two Justices of the Peace, where any log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned, 23 *El.c. 9. Dal. 48. Cro. 198. b.*

Long bows.

“ Any above the age of 24 years shooting at
“ standing pricks under eleven-score yards with
“ any prick, shaft or flight, loseth six shillings
eight pence, 33 *H. 8. c. 9. Lam. 481.*

Masons.

THe causing of masons to congregate themselves in chapters, is felony. *Ed. 2. 27. 3 H. 6. c. 1.*

Mainprise, vide Bailment.

Maintainers and Embracers.

**Maintainers and embracers of a Jury en-
quiring**

Maintainers & Embracers. 183

quiring of a riot, forfeit twenty pounds, and to be committed to prison, and to remain according to the discretion of the Justices, 19 H. 7. cap. 13.

The Justices which shall sit upon the inquisition of riots with the Sheriff or Under-sheriff, ought to certifie the names of the maintainers and embracers of a Jury, with their misdemeanours which they know, by which the truth of the said riot is not found, upon pain of 20 pound for every one that hath not a reasonable excuse, 19 H. 7. ca. 13. Cro. 199. b.

Maintainers of quarrels and embracers of Jurours are to be imprisoned, and bound to the good abearing, 33 H. 8. c. 10. 37 H. 8. c. 7. Lam. 440.

Maintenance is where any man giveth or delivereth to another that is plaintiff or defendant in any action, any thing to maintain his plea, or else maketh extreme labour for him where he hath nothing to doe therewith, *Terms of the Law*.

Embracer is he that when a matter is in trial between party and party, cometh to the barre with one of the parties, having received some reward so to doe, and speaketh in the case, privily labourerth the Jury, or standeth there to survey or overlook them, thereby to put them in fear and doubt of the matter: but men learned in the law may speak in the case of their Clients, *Terms of the Law*.

Maim.

He that hath maimed another of any member, whereby he is less able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by some wound the sinews be made shrink, or other member, or the fingers made crooked, or if any eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans body, by means whereof he is made the less fit to defend himself, or offend his enemy, he and his accessaries shall be grievously fined, *Lam. 429. Terms of Law.*

Justices of Peace cannot upon an indictment of maim, make the trial by their own view and inspection, as the J. of the K. Bench may doe, *Lam. 532.*

If Justices of Peace stand in doubt whether the hurt be a maim or not, they may use the help and opinion of some skilful Chirurgion to consider thereof, *Terms of Law.*

“Indictment of Maim must be *felonice maimavit*, *Cro. 101. a. nu. 3.*

Malt.

If any Bailiff or Constable of any borough or other town shall finde any malt made contrary to the Statute, 2 & 3 E. 6. 16. & 27 Eliz. 14. then with the advice of any Justice of the Peace within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices under the common price of the market, as to their discretion shall

shall seem convenient, *Lam.* 202. *Dal.* 86.
21 *Fac.c.* 28.

Any two Justices of the Peace may duly convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of malting made in open Q. Sessions, and shall commit him to prison without bail or mainprise for three daies, until he become bound in forty pound to perform such restraint, 39 *El. cap.* 16. *Lam.* 332, 202. *Dal.* 86.

The Justices of Peace or the greater part of them, may in open Qu. Sessions restrain the converting of barley into malt, 39 *El.c.* 16. *Lam.* 613. *Dal.* 86.

Malt must be three weeks in the ear, on the floor steeping and drying, except in June, July, August, and then 17 daies, or lose 20 pence for every quarter, *Lam.* 451. *Dal.* 87.

No insufficient malt mingled with good malt must be put to sale, 2 & 3 *E.6.c.* 16. & 27 *El.c.* 4. *Lam.* 452. *Dal.* 87.

No malt shall be put to sale that is insufficiently trodden, and out of which for every quarter hath not been fanned one peck of dust, *ibid.*

Man slaughter, *vide* Homicide.

Mariner.

Mariner coming from beyond the seas, or a sea-faring man having suffered shipwrack, and in want, may be licensed by the next Justice of Peace to his landing, to ask relief in his journey home-wards, 39 *Elizab.* 4.
Lam.

Lam. 303. Dal. 127. 1 Jac. cap. 28.

No fisher-man to be taken for a mariner by the Kings commission, unless chosen by the two next Justices to the place where he is to be taken, 5 *El. 5. Lam. 359. Dal. 87.*

Mariner departing from his Captain without licence, or wandering idly without, or with a forged licence, knowing thereof, is a felon, 39 *El. 17. Lam. 227.*

Any poor Mariner or Souldier coming from beyond the seas, that shall repair to his place of birth, &c. and cannot there get work, two Justices of the Peace next adjoining may take order to set him to work, and for want of work tax the whole Hundred for his relief, till sufficient work may be had, 39 *El. c. 17. Lam. 359. Dal. 138.*

“Mariner forging a Testimonial, or carrying the same, knowing it to be forged, it is felony, *Lam. 228. Dal. 289. 39 El. c. 4. c. 17. 1 Jac. c. 7.*

“Mariner landing, and not having a Testimonial under the hand of some Just. of Peace near the place of his landing, setting down, 1. the time and place of his landing, 2. the place to which he should pass, 3. and the time for his travel, 4. or exceeding that time fourteen daies, it is felony, 39 *El. c. 17. Dal. 289. Lam. 303.* But if he have such a Testimonial, and pursue the same, he may ask and take such necessary relief as shall be given him, 39 *El. cap. 17. Lam. 303.*

Vide Felony by Statute.

Market

He that is owner, &c. of any fair or market where horses, geldings, mares, or foals are to be sold, and doth not yearly assign one open place where the said horses, &c. shall be sold, and one to take Toll, who shall continue there from 10 in the morning until sun-set, forfeiteth 40 shil. for every day, 2 & 3 P. & M. c.4. Cro. 91. a. Lam. 471.

To alter the property of any strangers rights in horses and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kinde, Dal. 74.

Sale in fair or market doth not take away the owners property, the buyer knowing that it was anothers, Dal. 74.

Vide Horses.

Marriage.

If any married person marrieth another, the former wife or husband being alive, except the husband or wife have been beyond the seas seven years together, or hath been absent within the Kings dominions seven years together, the one not knowing the other to be alive, or was at such marriage lawfully divorced, or the former marriage by sentence ecclesiastical declared to be void, or was had within years of consent, it is felony, 1 Jac. 11. Lam. 421. Dal. 289. Cro. 52. a. without corruption of blood, loss of dower, or dis-inheriting any heir.

Mafs.

To fing Mafs, forfeiteth 200 marks and a years imprisonment. To hear it, forfeiteth 100 marks and like imprisonment, 23 *El. c.1. Lam.413.*

For the discovery of any who hath been at Mafs, *vide* Jesuites.

Master, *vide* Servant and Labourers.

Measure, *vide* Weight.

Messages false.

Two J. of P. one being of the *Quorum*, may (as it seemeth) binde over to the next Qu. Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such, or bail them to the next Q. Sessions, *Dal.47. 33 H.8. c.1. Vide plus Cozenage.*

Milch-Kine, *vide* Calves.

Minstrels, *vide* Rogues.

Misprision.

Misprision is properly, where one knoweth that another hath committed treason or felony, but was not consenting thereto, and will not discover the offender to the K. or his Council, or to some magistrate, but conceals the offence, *Dal.234. Stam.37. T. of Law, 131.*

A Chaplain fixed an old seal to a new Patent of non-residency, it was holden misprision of Treason, *Terms of Law, ibid. Dal.229.*

Knowing money to be counterfeit, and bringing

bringing it out of Ireland into England, and uttering it in payment, is misprision of treason, *Terms of Law, ibid. Cro.44.b. Stamf.38. 3 H.7.10.*

For misprision of felony he shall onely be fined, *Dal.234. Terms of Law, ibid.Cro.44.a.*

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgement, *Dal.231.*

To strike a Juror in presence of the Justice sitting in place of Judgement, *Dal. ibid.*

To strike one in Westminster-Hall, any of the Kings Courts sitting, *Dal. ibid.*

In all which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason, Dal.234.

A stranger rescuing one arrested by a Justice upon an affray sitting in place of justice, whereby he escapeth, it is misprision of Treason, *Dal. 231.*

For offenders in high Treason, misprision of Treason, *Pramunire*, though J. of P. cannot meddle in the very point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing material, and put it in writing under the hands of the informers, and commit the offenders to gaol, and binde over those which prove any thing material to appear before the
Lords

190 Misprision of Treason.

Lords of the Council, or elsewhere to give evidence upon reasonable warning, and to certify their doings to some of the Lords of the Council or elsewhere, *Dal.* 235.

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to doe any of them, and doth not within 20 daies disclose it to some Justice of the Peace, or higher officer, it is misprision of treason, 23 *El.* c. 1. *Lam.* 412.

Within six weeks after any Bull or other instrument of reconciliation hath been offered, not to reveal it to some of the privy Council, or Presidents of the North, or Wales, is misprision of treason, 23 *El.* c. 1. *Lam.* 413.

Misprision of Felony.

He that seeth one killed by another, or robbed, or any other felony committed, and is not of their confederacy, and doth not make resistance, or disturb the felon, or levy hue and cry, but conceal the same, it is misprision of felony, and fineable, 14 *H. 7.* c. 31. *Cro.* 44. *Dal.* 296.

A man foreknoweth of a felony to be done, & concealeth it, and it is effected; it is misprision of felony, *quare Cro.* 41. b. m. 5. *Dal.* 298.

“ Every treason or felony doth include
“ misprision, so that where any hath com-
“ mitted treason or felony, the King may
“ cause

Mittimus.

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"cause the offender to be indicted and arraigned but of misprision, *Cr. 44. b. Dal. 234.*
" *Stamf. 37. d.*

Mitigation of fines and forfeitures,
vide Lamb. 577.

Mittimus.

Mittimus must contain the names of the parties, their offences, and time of imprisonment, that it may appear whether the prisoner beailable or not, *Lam. 297. Cro. 153. a. nu. 11. Dal. 315, 396.*

If one be committed without bail or mainprize, and the cause is expressed in the *Mittimus*, and yet isailable, other Justices of the Peace may bail him: yet *Quare*, seeing their authority is equal, *Dal. 315.*

The form of the *Mittimus*.

To send felons to the Gaol, *Lam. 220. Dal. 394.*

To send rioters to the Gaol, *Lam. 321.*

To send shooters in pieces, *Lamb. 297. Dal. 398.*

To send upon forcible entry, &c. *Lam. 150.*

To send to the house of Correction, *Dal. 396.*

To send an Ale-seller without licence, *Dal. 387.*

To send a reputed father of a bastard, *Dal. 392.*

Monasteries.

Monasteries, *vide* Religious houses.

Mortuaries.

Spiritual person not to take mortuaries or any thing for them, where they have not been used to be payed, or where the goods of the dead are under ten marks; taking above three shil. four pence where the goods are under 30 pound, or above 6 shil. 8 d. where they are above thirty pound and under forty pound, or above ten shil. where they are above 40 pound, he shall forfeit all taken above his due, and 40 shillings to the party grieved, 21 H. 8. c. 6. Lam. 435, 436.

Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felony, 5 H. 4. c. 4. Lam. 227, 425.

Murder.

Murder is when one man upon malice pretended, premeditated, or precedent, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the party slain be English or alien, Lam. 237. Cro. 21. a. nu. 1. Dal. 241, 239.

The killing shall have relation to the death and not to the stroke, Cook 4. 42. Cro. 21. a. nu. 1.

Malice is { Expressed, { Cro. 21. a. Dal. 241.
 { or
 { Implied, { Lam. 239.

Malice

Malice expressed is when it is known that there is malice between them, *Cro. 21. a.* and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed, *Dal. 241. Lam. 238.*

Malice implied is when one is killed suddenly without defence, *Dalton 241. Cro. 21. a. nu. 2.*

As where one killeth another without provocation, *Lam. 239. Dal. 241.*

One busied, as reading, going over a stile, &c. killed, *Cro. 27. a. nu. 20. Dal. 241.*

One stabbed, not having weapon drawn, *1 Jac. c. 8.*

To kill an officer known, in executing process, *Dal. ibid.*

To kill an unknown officer if he shew his warrant; and if an officer hath the Kings writ or lawful warrant, though it be erroneous, and slain in executing it, it is murder, *Lam. 240. Dal. 241.*

To kill any magistrate or minister of Justice in executing his office, or in keeping the peace, *Dal. 242. Cro. 25. b. nu. 51.*

A rioter killeth an officer or an assistant coming to suppress a riot, it is murder in all the rioters, *Cro. 23. b. nu. 28. Lam. 241. Dal. 242.*

A Constable parting an affray, or any of his company coming to aid him, although it was suddenly and in the night, *Cro. 25. a. nu. 51. Dal. 241.*

A thief killing a true man in resisting, it is murder of malice prepensed, *Lam. 241. Dal. 241. Cro. 22. a. nu. 13.*

1 A man carried his sick father into the frost, whereby he died, *Lam. 240. Dal. 242.*

2 An harlot hid her child, and covered it with leaves; and a Kite struck it and killed it, *Dal. 242. Lam. 240.*

3 The owner knoweth his beast to be accustomed to hurt, and doth not tie him up, and after the beast killeth a man, *Lam. 239. Dal. 242.*

In these three cases, voluntas reputabitur pro facto, for it sheweth that they had a will to hurt, and the will doth amount to malice, Dal. ibid. and so to murder.

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder, for he "slew him in the said malice wherein he did "assault him, *Lam. 239.*

One condemned to die is killed by a private person without warrant, or by the Officer contrary to the judgement; it is murder, *Lam. 240.*

Prisoner killed by his gaoler by over-hard keeping, it is murder, *Lam. 240.*

One commandeth his servant to beat a man, who beateth him so that he dieth thereof; it is murder in the commander, *Dal. 245.* murder in both, if it be in the commanders presence, *Lam. 241.*

Many come to doe an unlawful act, and one in doing thereof killeth a man; it is murder in all, although they did but look on, *Dal. 245, 253. Cro. 22. a. nu. 15. 24. b. nu. 43. Lam. 241. Stam. 40.* If they be not present, yet if they be in the same house, or upon the same ground,

ground; it is murder in all, *Dal.* 245. *Cro.* 25. a. nu. 5. *Lam.* 241.

All present and aiding, abetting or comforting another to doe murder, are principals, *Dal.* 245. *Lam.* 243. *Cro.* 22. a. nu. 15.

Two appoint the field and meet, and bring company with them, and one of them is slain; it is murder in all that came with the murderer, *Dal.* 245.

Murder is intended to one, and he killeth another, it is murder, *Lam.* 243. *Dal.* 244.

A. woundeth *B.* in fight, and after they meet suddenly and fight; if *B.* kill *A.* it is murder, for it is intended malice upon the former hurt; but if *A.* kill *B.* it is but manslaughter, for the hurt did appease his former malice, *Lam.* 251, 238. *Dal.* 243.

Two in suit meet and quarrel, and the defendant killeth the plaintiff; *quare* if it be murder, *Dal.* 244.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both, *Dal.* 244. *Lam.* 242.

The owner rebuked one stealing his pears, who killed the owner; it was adjudged murder, *Dal.* 245. *Lam.* 241. *Cro.* 24. a. nu. 34.

Poisoning of another wilfully whereby he dieth, is and was murder by the common law, *Dal.* 244.

The party poisoned must die within a year and a day after the receiving of the poison, *Dal.* 246.

After the beating or hurting another, to make murder, or other homicide, the year and the day is reckoned from the

stroke given, *Dal.* 246. *Cro.* 23. b. nu. 54.

An appeal hath relation to the death, *ibid.*

A woman delivered of a bastard, endeavouring privately either by drowning or by secret burying to conceal the death thereof, as that it may not come to light, whether it were born alive or dead, but be concealed, shall suffer death as in case of murder, except she make proof by one witness that the child was born dead, 21 *Jac.* cap. 27.

Justices of Peace may take Endictments of murder as of murder, *Lam.* 493.

“ A man hath a horse that will strike such as
“ come near him, his master knowing it, ri-
“ deth among people, the horse killeth a man,
“ it is felony in the master, *Dal.* 242. *Lam.* 239.
“ *Cro.* 24. b. nu. 45.

“ Indictment of murder must expressly have
“ *murdravit*, for *ex malitia præcogitata*, &
“ *voluntate*, & *felonice interfecit*, is not suf-
“ ficient, *Cro.* 101. a. nu. 4.

Musters.

Convicted before the Justices of Peace for offence against the Statute of musters, shall be imprisoned 10 daies without bail, unless he pay the forfeiture being 40 s. which is for absence without reasonable excuse, or not shewing his best furniture being commanded, 4 & 5 P. & M. c. 3. *Lam.* 349, 482.

The party that sueth upon the Statute of musters, is to recover the forfeiture belonging unto him by action, or bill of debt, *ibid.* *Lam.* 583.

Name.

THE names and surnames of the party indicted must be certainly expressed; and if the indictment be of an accessory in felony, the name of the principal must be set down also, *Lam.* 488. *Vide* Additions.

Nets, *vide* Hunting, Partridges
and Pheasants.

News.

Contriver, speaker, or teller of false or counterfeit news, whereof discord, &c. may arise betwixt the King and his Nobles, or any other false news, lies; or other false things of Prelats, Dukes, Earls, and Barons, &c. whereof discord and slander may arise within the realm, shall be imprisoned till he find out the author; and if he cannot find him, shall be punished by the advice of the Council, *West.* 1. 3 *Ed.* 1. c. 33. 2 *R.* 2. c. 5. 12 *R.* 2. c. 11. 1 & 2 *P.* & *M.* c. 3. *Dal.* 326.

Next Justice.

Where the Statute of 13 *H.* 4. c. 7. willeth the Just. of Peace most nigh in every County, where such riot or rout shall be, to doe execution of the Statute under pain of 100 pound, if any other Justices that be not next unto the place shall execute the Statute, it will excuse the next, because all have power alike, by the first part of the Stat. *Lam.* 326, 327. *Dal.* 111. *P. R.* 30.

Night-walkers, *vide* Watches.

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Noble

198 Noble Personages.

A Noblemans promise to keep the Peace hath been held sufficient, *Dal. 165. Lam. 81, 82.*

A Justice of Peace may not grant warrant of the Peace against a Lord of the Parliament, *Dal. 165.*

Nor against a Dutchess, Countess, or Baroness; for they are Peers of the Realm, and shall be tried by their Peers, and have the same priviledges that Dukes, Earls, and Barons have, *Dal. 166.*

Dutchess, Countess, or any Noble by birth, marrieth with a Gentleman, she loseth not her name of dignity: but if she be made noble "onely by marriage, and her husband dying, "marry a Gentleman, she loseth her dignity, *Cro. 110. 2. Dal. 166. Vide Clergy*, that a Nobleman may have his Clergy for any felony, except wilful murder and poisoning.

"None are noble under the degree of a "Baron, *Lam. 539.*

Non sanæ memoriæ.

There be three sorts of persons *Non sana memoriæ*, or *non compotes mentis*, *Dal. 248.*

1. A natural fool, who is so from his birth.
2. He that was once of sound memory, and after by sickness, hurt, or other accident or visitation of God loseth it.
3. A lunatick, *qui gaudet lucidis interval- lis*, and sometimes is of good understanding, and sometimes is not *compos mentis*.

Nufans.

Every man may in a peaceable manner assemble a meet company to doe any lawful thing, or to remove or cast down any common Nusance, *Dal. 224. Cro. 66.a. nu. 64.*

“One is indicted of Nusance, and acknowledges it, infinite distress shall go to the Sheriff to remove it, and he shall not be received to his fine till the Sheriff return that it is removed, *Cro. 186.a.*

Obedience to the King.

If any practice to absolve, perswade, or withdraw any from their natural obedience to the King, or (for that intent) from the religion now established here to the Romish religion, or to move them to promise obedience to the See of Rome or other estate, or if any have been willingly so absolved, or have promised such obedience, it is treason, *23 El. c. 1. Lam. 412. Cro. 18.a.*

Colore Officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a veil to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem*, *Cro. 57.b. nu. 2.*

Ordinary.

His Fees, *vide Fees.*

The Ordinary oweth not his attendance at the Sessions of the Peace, as he doth at the gaol-delivery, *Lam. 395, 396.*

“ The Court may allow Clergy in strictness of Law, though the Ordinary or his deputy be not there, *Cro. 118.b. nu. 44. Stam. 133. a.*

“ A felon adjudged to be hanged, in failing to read, may in favour of life have the benefit of Clergy at the gallows. By which it appeareth, that the Ordinaries presence is not of necessity. But this is intended where the felon is adjudged in the Kings Bench, not at the Assizes, for their Commission endeth with their Sessions: but before Justices of P. it seemeth he may have his Clergy at the Gallows, for their Commission continueth, and may allow Clergy without an Ordinary, *Cro. 119 a. nu. 54, 56. Stam. 132. b. yea one* reprieved may pray his Clergy at the next Assizes, *Cro. ibid. nu. 56.* The Judges are Judges of the Clerks reading, and not the Ordinary. For if the Ordinary say that he readeth, and cannot, he shall be hanged, and the Ordinary fined, *Cro. 119. a. nu. 49. Vide plus Clergy. Extortion.*

Oath.

You shall swear that the surety of the Peace which you require against *A. B.* is not of any malicious intent, for vexation, but for very fear, and for the needful preservation of your body and goods in safety; so help you God, *Lam. 83.*

Oath of the Justices of Peace, *vide Dal. 13.*

Oath of Supremacy, *Dal. 14.*

“ Oath of Constables and Churchwardens is to be enlarged, *vide Tiplers.*

Oath

Oath of Allegiance, *Dal.* 15. 3 *Fac. cap.* 4.
7 *Fac. c.* 6.

The *Custos Rotulorum* or any two Justices of the Peace, one being of the Quorum, may take the oaths of Under-sheriffs of their County, their Bailiffs, Deputies, Clerks, or under-officers, before they shall exercise their said offices, *Dal.* 138. See 27 *El. c.* 12. the form of the Oath.

Quare if Justices of the Peace may examine upon oath sureties of their sufficiency, *Dal.* 171. Justices of Peace in their Sessions may doe it, *Cro.* 194. a. *Br.* imprisonment 18.

Default of Under-sheriffs, their Clerks, Bailiffs, &c. in not taking their oaths for execution of their office, is to be heard and determined at the Quarter-Sessions, 27 *Eliz. c.* 12. *Lam.* 615.

Under-sheriffs, Bailiffs, &c. doing any thing contrary to their oaths, lose to the party grieved treble damages, 27 *El. c.* 12. *Lam.* 433.

Where the refuser of the oath of Allegiance shall incur a *Præmunire*, *vide Præmunire*.

Refuser of the oath of Allegiance is disabled to execute any place of judicature or office, being no office of inheritance or ministerial function, or practice of the Law Civil or Common, or the science of Physick, Surgery, or the art of Apothecary, or any liberal science, 7 *Fac. c.* 6.

One Justice of Peace to whom complaint is made, may commit to the gaol without bail till the next Assizes, gaol-delivery, or Qu. Sessions, any above the age of 18 years

K. 3

(under

(under a Baron or Baroness) which stand presented, indicted, or convicted for not coming to Church, or not receiving the Communion, or which by the Minister, pety-Constable and Churchwarden, or any two of them, shall be complained of to any Justice of the Peace, and by him suspected, may "by such Justice be required to take the oath of allegiance, and "may be committed without bail till the next Assizes, for refusing the oath of allegiance, 7 Jac. c. 6. Lam. 199. Dal. 82, 107.

Two Justices of the Peace, one being of the Quorum, may require any person of the age of 18 or above, under the degree of a Baron or Baroness, to take the oath of allegiance, and on refusal to commit him to the gaol without bail till the next Assizes or Q. Sessions, 7 Jac. c. 6. Lam. 363.

Where the examination of a Justice of P. is the conviction of the party, there it ought to be upon oath: but where it is but to inform the Jury upon the indictment, it needeth not, Lam. 536. Dal. 159. Though the statute doth not expressly say it shall be upon oath, Dal. ibid.

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence. For,

If the examinee die before the trial, the examination may be evidence; without oath many will speak coldly. It is the practice of the Courts in Westminster, Dal. 307 & 308. Cro. 194. a. nu. 5. Lam. 213, 214, 215. Br. Examination 32.

The refusing the oath of allegiance required by two Justices of the Peace, and the taking of the same and oath of supremacy by a conformed Recusant returning into England, are to be certified at the next Qu. Sessions, 7 Jac.c.6. Lam. 362, 363, 616.

The oath of allegiance being required at the Qu. Sessions of such as formerly refused the same, and being there tendered and refused, the refusers (other then Noblemen and women) incur *Premunire*, except women covert, who are to be sent to the gaol without bail, Lam. *ibid*.

Orchards and Gardens, *vide* Hedgebrakers.

Overseers of the Poor.

“ Overseers for the poor for every parish are
 “ to be nominated yearly in Easter week, or
 “ within a month after, by two Just. of P. one
 “ being of the *Quorum*, under their hands
 “ and seals, dwelling in or neer the parish,
 “ 43 El.c.2. Lam. 360. Dal. 91.

“ Overseers and Churchwardens with two
 “ such Justices, may set to work children of
 “ such as are not able to keep them, and all
 “ married and unmarried which have not
 “ means to maintain them; and may raise a
 “ weekly stock or otherwise by taxation of e-
 “ very inhabitant, and dispose thereof, *ibid*.

“ Overseers and Churchwardens (not let-
 “ ted by sickness or other just excuse allow-
 “ ed by two such Justices) shall meet monthly
 “ in the Church upon Sunday after Eve-
 ning

204 Overseers for the Poor.

“ning Prayer, to consult about ordering of
“the poor, or forfeit 20 s. a piece, 43 *El.c.2.*

“Any finding himself grieved with the tax,
“ation made by the Overseers, &c. or by the
“Justices, may have remedy at the Q. Sessions,
“43 *El.cap.2.*

“In disability of the parish, the two Just.
“may tax any other parish within the Hun-
“dred. If the Hundred be not sufficient, the
“greater part of the Justices of Peace in other
“Sessions may rate other parishes, 43 *Eliz.*
“*cap.2.*

“Overseers and Churchwardens either pre-
“sent or subsequent may by warrant of two
“such Justices levy all sums and arrerages of
“any refuser by distress and sale of his goods.
“In default of distress, two such Just. may
“commit him without bail till payment made,
“43 *El.c.2.*

“Overseers may be committed till they
“do account, 43 *El.c.2.*

All to whom the overseers by 43 *El.2.* may
bind apprentices, may take and keep them as
apprentices, and the overseers may with the
assent of two Justices of Peace, one being of
the *Quorum*, in their respective limits where
there be more then one, or by assent of one
Justice of Peace where there be no more, set
up, use and occupy any trade, mystery, or oc-
cupation, only for setting poor of the parish
on work wherein they are overseers, 3 *Car.6.4.*
Vide Poor.

Pannel, *vide* Jurors.

Pardon.

AT the Common Law before the statute of 13 R. 2. stat. 2. c. 1. a pardon of all felonies was good for murders, and so for pety treasons, *Lam. 561.*

Pardon of all felonies is not good for murder or pety treason, except the pardon be with a *non obstante*, or that murder be therein expressly mentioned, *Dal. 246. Cro. 21. b. nu. 7.*

But it is good for accessaries, both before and after.

A pardon of all felonies will not discharge a man that is attainted of felony, except the execution and attainder be pardoned, *Cro. 115. 2. nu. 1. Lam. 562. Dal. 245.*

Breaker of the peace after the pardon, forfeiteth the pardon, and may be hanged notwithstanding his pardon, *Cro. 115. b. nu. 16. Dal. 247.*

The King only can pardon treason, murder, or other felony, or any accessory thereunto, *Dal. 247.*

General pardon is that which is given by act of Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it nor accept the benefit thereof, *Lamb. 559, 560, Cro. 115. b. nu. 13.*

Pardon of abjuration is not good without special words of abjuration, *Lam. 562.*

Quare if a general pardon for pety treason avail him that is indicted of murder, without the word *proditorie*, *Lam. 560.*

A general pardon (coming betwixt the stroke and the death) of all misdemeanours, will avail for the death, *Lam. 560.*

Quare

Quære if a pardon of all offences (except persons outlawed of murder) will avail one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry, *Lam. 560. Cro. 116. b. nu. 17.*

Pardon of attainder and execution for felony is not good for felony, without words to "pardon the felony it self, *Lam. 562.*

Pardon of a Gaoler for escapes of felony and traitors, is not good for voluntary escapes, *Lam. 562.*

Pardon of two for all felonies done by them, or either of them, will not serve for offences done by one of them alone, *Lam. 562.*

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for petty treason, murder, nor for one attainted of felony, *Lam. 561.*

A special pardon ought to be pleaded under the great Seal, and a writ of allowance brought with it, testifying he hath found surertry for the good behaviour; unless there be a dispensation by *non obstante*, *Lam. 561.*

Prisoner pleadeth a pardon, the J. of P. in absence of the Kings attorney may join issue that he is one of the persons excepted, *Lam. 540. Stam. 103.*

He that killeth another *se defendendo*, needs not sue to the King for a pardon, *Stam. 15. b. Lam. 253.*

He that killeth one by misadventure, shall have a pardon of course without suit, *Stam. 16. Stat. of Gl. c. 9.* in both cases the goods are forfeited.

The

The manner of suing a Pardon of course is, If they desire to purchase their pardon, they must upon their trial plead not guilty, and then the special matter being found by verdict, they shall be bailed; then they must sue forth a *Certiorari* to certify the record to the Lord Chancellour, who shall make them a pardon of course under the great seal without suing to the King, *Stam. 15. Dal. 250.*

Park and Parker.

Hunters or killers of any Deer or Conies in the night or day-time in any park or warren, or in any other inclosed grounds, and being thereof lawfully convicted, every such offender shall suffer three moneths imprisonment, and finde sufficient surety for the good behaviour for the space of seven years, or else continue in prison till he finde such sureties for the space of seven years, and pay treble damages, or (if "it be for deer) 10 l. to the party grieved, at "his election, 5 *El.c. 21. 7 Jac.c. 13. Dal. 326.* *Vide Hunting.*

Parson and Vicar, *vide Ecclesiastical causes.*

Partridges and Pheasants.

Every Justice of Peace may examine offences against the Statute of 23 *Eliz. cap. 10.* for taking of partridges and pheasants in the "night, and binde the offenders by recogni- "zance with good surety to appear at the "next Q. Sessions, &c. And after conviction an.

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“ and punishment take bond with sureties, that
“ for two years after they shall not offend
“ against the said Statute, *Dal. 87. Lam. 200.*
“ *23 El. cap. 10.*

By *1 Jac. cap. 27.* 1. He that shall shoot at, kill, or destroy with any gun, cross-bow, stone-bow, or long-bow, any partridge, pheasant, house-dove, pigeon, heron, mallard, duck, teal, wigeon, growse, heath-cock, moregame, or any such fowl, or hare. 2. Or shall take, kill or destroy any partridge, pheasant, house-dove or pigeon with setting-dogges and nets, or with any manner nets, snares, engines or instruments. 3. Or shall take or willingly destroy the egges of any pheasant, partridge, or swan. 4. Or shall trace or course any hare in the snow, or shall take or destroy any hare with cords or such instruments. 5. Or shall keep any greyhound for deer or hare, or setting-dogges or nets to take pheasants or partridges, not having lands of inheritance of 10 pound or 30 pound *per annum* for life, or in goods 200 pound, or be the son of a Knight, or son and heir apparent of an Esquire: any of the said offences being proved by the parties confession, or oath of two witnesses before any two Justices of Peace of the County where the offence shall be committed, or the party apprehended, shall be imprisonment for three moneths without bail, unless he forthwith upon his conviction pay to the use of the poor there 20 shill. for every hare, fowl, and egge, and 40 shill. for having every such greyhound, setting-dogge, or nets, or after
three

Partridges and Pheasants. 209

three months imprisonment be bound with two sureties not to offend in any the said particulars; which recognizances taken by two Justices of the Peace, must be returned at the Quarter Sessions, 1 *Jac.c.27. Dal. 89. Lam. 335.*

By 7 *Jac.c.11.* proof of one witness is sufficient for the taking of partridges and pheasants with setting-dogs and nets, or other nets, snares, or engines, &c. the punishment as 1 *Jac.27. Lam. 334.*

Killer of partridges or pheasants with hawks or dogs, by colour of hawking, between the first of July and the last of August, upon conviction within six months after the offence by the confession of the party, or oath of two witnesses before two Justices of Peace, is to be imprisoned one month without bail; unless he pay presently to the Churchwardens and Overseers of the poor where he offended or was taken, 40 shill. for hawking, and twenty shill. for every partridge or pheasant taken, 7 *Jac. cap. 11. Lamb. 335. Dal. 88.*

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by low-bel or trammel, and there to let them go again, loseth 20 shill. a pheasant, and 10 shill. a partridge, 11 *H.7.c.17. 23 El.c.10. Lam. 447.*

Hawking in corn before it be cropped, without consent of the owner, loseth 40 shill. *ibid.*

Taker, killer, or destroyer, by guns, bows, setting-dogs, nets, or other engines, of any partridge

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partridge or pheasant, except the owner of a Warren, Lord of a Mannor, or having lands of inheritance in his own or his wives right of the clear yearly value of forty pound, or for life of eighty pound, or goods worth 400 pound, and their household-servants authorized by them within their own grounds in the day-time only betwixt Michaelmas and Christmas, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Justices of Peace next the place of offence or apprehension, to be imprisoned three months without bail, unless he pay immediately unto the Churchwardens and Overseers of the poor of one of the said places, 20 shillings, and be bound to the King by recognizance in twenty pound never to offend again: the same to be certified at the next general Qu. Session, 7 *Fac. c. 11.*

Buyer or seller of hare, deer, partridge, or pheasant (except partridges or pheasants bred up or brought up from beyond the seas) loseth for every deer 40 shill, pheasant 20 shill, hare or partridge 10 shill. one moiety to the informer, the other to the poor of the parish, 1 *Fac. c. 27.*

Constable by warrant from two Justices of the Peace may search the houses of any not allowed, suspected to have any setting-dogs or nets for partridges, and finding them, may take, carry away, detain, kill, or cut in pieces any of them, 7 *Fac. c. 11.*

Offences against the statute of 1 *Fac. c. 27.* punished by it, are not to be punished by any former,

former, and are to be heard and determined by Judges of Assize in their Circuit, Just. of P. at Qu. Sessions, or two Justices of the Peace out of the Sessions, 1 *Fac.* 27.

"Who may take partridges and pheasants in their own ground, and when, *Vide 7 Fac.*

"*cap. 1 1.*

Peace.

Every private person that shall be present at any affray, assault, or battery, ought to part them that fight; and if he take hurt, he shall have his action: but if they resist him, he may not hurt them, *Lam.* 131. *Dal.* 33.

Every man may stay the affrayers, till their heat be cooled, and then they may deliver them to the Constable to imprison them till they finde sureties of the Peace; but they may not imprison them unless the one of them be in peril of death by some hurt, for then any man may carry the other to the gaol till it be known whether the other wil live or die, *Lam.* 131. *Dal.* 33. *Br. Coro.* 225.

He which hath mortally hurt another, flieth into anothers house, any man that pursueth him with hue and cry, may break open the house, enter, and take him. *Dalt.* saith the Constable may, *Lam.* 131, 132. *Dal.* 34.

"If an affray, forcible entry, or any thing in disturbance of the peace be done in the presence of a Justice of Peace, he may record it, and certifie the same, and commit the parties presently, *Dal.* 89. *Vide Affray.*

“ If the Justice of Peace certifie into the
 “ Kings Bench that I. S. hath broken the peace,
 “ upon that Certificate I. S. shall be there
 “ fined, without allowing him any traverse,
 “ *Dal. 89.*

Peers, *vide* Noble personages.

Pedlers, *vide* Rogues.

Perjury.

Procuring any unlawfully to commit wilful perjury in any case depending in Court of Record, Leet, Court-Baron, Hundred-Court or ancient demesne, or hath corruptly suborned any witness sworn to testify *in perpetuam rei memoriam*, or if any have upon such procurement, or by his own act wilfully committed such perjury, the procurer shall forfeit 40 pound; and if not worth so much, half a years imprisonment without bail, stand upon the pillory for one hour, and be disabled for a witness for ever after, 5 *El. cap. 9.* & 14 *El. cap. 11.*

The perjured 20 pound and six moneths imprisonment, and ever disabled for a witness; and if not worth 20 pound, to have his ears nailed to the pillory, 5 *El. c. 9.* & 14 *El. c. 11.* & 1 *Fac. c. 25.* *Lam. 416.* *Cro. 18. a. b.* This offence to be heard and determined in the Qu. Sessions, *Lam. 609.*

Execution of the forfeiture upon the statute of perjury, to be awarded by the J. of the P. before whom the conviction was; *Lam. 585.*

Com^d

Committing of perjury upon answer to a bill of complaint is not within the Statute of 5 *Eli.* but for a false deposition upon examination upon interrogatories, *Crom.* 18.b. nu. 3.

If any give false evidence upon a bill of indictment at the Sessions, it is held he shall not be punished by the statute of 5 *Eli.* for that the King is not named in the said statute, *Cro.* 18.b. nu. 5.

"If an officer take other fees then are allowed and incident to his office, he committeth perjury, *Cro.* 57.b. nu. 7.

"A man is attainted of perjury, the King pardons and restores him. *Quare* if his testimony shall be allowed against a prisoner, for Once forsworn, ever forlorn, *Cro.* 100.b *Dal.* 305.

Pety-treason.

The wilful killing or joyning in killing of the husband by the wife, the master or mistress by the servant, the Ordinary by his clark, is pety-treason, 25 *E. 3. c. 2. Lam.* 245, 246. *Dal.* 236. *Cro.* 19.b. nu. 1.

The child maliciously killeth the father or mother, it is pety-treason, though the father or mother at the same time give neither meat, drink, nor wages to the said child; but it is pety-treason in the said child in respect of the duty of nature violated, *Dal.* 233. *Cro.* 19.b. But *Lam.* saith it is not treason in the child, if the father give it not meat nor drink, as to a servant, *Lam.* 245. and doe their business,
for

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 “ Kings Bench that I. S. hath broken the peace,
 “ upon that Certificate I. S. shall be there
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If any give false evidence upon a bill of indictment at the Sessions, it is held he shall not be punished by the statute of 5 *Eli.* for that the King is not named in the said statute, *Cro.* 18.b. nu. 5.

"If an officer take other fees then are allowed and incident to his office, he committeth perjury, *Cro.* 57.b. nu. 7.

"A man is attainted of perjury, the King pardons and restores him. *Quare* if his testimony shall be allowed against a prisoner, for *Once forsworn, ever forlorn*, *Cro.* 100.b *Dal.* 305.

Pety-treason.

The wilful killing or joyning in killing of the husband by the wife, the master or mistress by the servant, the Ordinary by his clark, is pety-treason, 25 *E. 3. c. 2.* *Lam.* 245, 246. *Dal.* 236. *Cro.* 19.b. nu. 1.

The child maliciously killeth the father or mother, it is pety-treason, though the father or mother at the same time give neither meat, drink, nor wages to the said child; but it is pety-treason in the said child in respect of the duty of nature violated, *Dal.* 233. *Cro.* 19.b. But *Lam.* saith it is not treason in the child, if the father give it not meat nor drink, as to a servant, *Lam.* 245. and doe their business, for

for it is as a servant, 21 E. 3. 17. meer for-
meistre by *Lam.* opinion.

The son or daughter in law kill the father or
mother in law with whom they dwell, and doe
service, and have meat and drink ; it is pety-
treason, though such child take no wages ; but
the indictment shall be by the name of servant,
Dal. 237.

Judgement in pety-treason is, a man is to
be drawn and hanged ; if a woman, both in
high treason and pety-treason, to be drawn and
burned, *Lam.* 570. *Dal.* 237.

The forfeiture for pety-treason is, the King
shall have all his goods, and for his lands
Annum, diem, & vastum, and the escheat there-
of shall be to every lord of his proper fee, *Dal.*
238.

No clergy is allowed in case of pety-trea-
son, *Dal.* 237.

Pewter, *vide* Brasse.

Physician.

One neither Physician nor Chirurgeon ta-
keth upon him to cure a sick or wounded man,
who dieth under his hand, it was felony until
34 H. 8. c. 8. *Lam.* 240. *Dal.* 243.

But if a smith or other having skill onely in
curing and dressing diseases of horses, or other
cattel, shall take upon him cutting, or letting
blood, or such like cure of a man, who dieth
thereof, it seemeth to be felony, *Dal.* 243.

Pistures

Pictures brought from Rome, *vide*
Agnus Dei.

Playes and Players, *vide* Unlawful
games, *vide* Rogues.

Plague.

Head-officers and Justices of Peace in a corporation, or in a privileged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or privileged place, or liberties thereof, for the reasonable relief of persons infected, or dwelling in houses infected within the said corporation, or privileged place, 1 *Fac. cap. 31. Lamb.* 337.

Corporation or privileged place not being able to relieve the persons infected therein, upon certificate of the head-officer or Justices of Peace, or two of them to the two next Justices of the Peace, the said two Justices may assess and tax the inhabitants of the county within five miles of the corporation at a weekly tax for the relief of them, 1 *Fac. c. 31. Lam.* 337.

There being no Justice of Peace in the corporation, or the infection being in a hamlet, the two next Justices of the county may assess the inhabitants of the county within five miles of the place infected, for the reasonable relief thereof, 1 *Fac. cap. 31. Lam.* 338.

The taxes, upon refusal, to be raised by warrant of the head-officers or Justices upon the goods of the refuser, or upon default of

of goods returned, the party by another warrant to be imprisoned, till he make payment thereof with the arrerages, 1 *Fac. c. 31.*

Taxes made for the relief of places infected, are to be certified at the next Qu. Sessions, and there to be continued, enlarged, or extended to other parts of the County, or determined by the greater part of the Justices, 1 *Fac. c. 31. Lam. 609.*

Taxes levied of the county for the relief of an infected corporation, are to be disposed by the head-officer and Justices of the corporation, or two of them; and if there be no Justice, then by the Justices assessors, 1 *Fac. cap. 31.*

Officers negligent in levying of the taxes, lose ten shill. to be employed as the taxes, 1 *Fac. c. 31.*

Watchmen not to be impeached for hurting those infectious persons that being commanded to keep in, will in offering to come forth resist the watchmen, 1 *Fac. c. 31.*

Any infectious person commanded to keep in, goeth abroad and keepeth company, having an infectious sore uncured, it is felony without corruption of blood or forfeiture of goods; if without sore, to be punished as a vagabond by 39 *El.* and bound to his good behaviour for a year, 1 *Fac. c. 31.*

Officers of a corporation and Just. of the Peace in the county, may respectively appoint, swear, and direct searchers, watchers, and buriers of infected persons and places, 1 *Fac. c. 31. Lam. 197.*

“ One Justice of Peace may command persons dwelling in infected houses to keep in :
 “ and , if they go abroad, violently enforce
 “ them, 1 Jac. c. 31. Lam. 197. Cro. 122. b. nu.
 “ 39. Dal. 90.

Plaints in Court.

One Justice of Peace may upon complaint examine the Sheriff or Under-sheriff and Plaintiff concerning the taking & entring of plaints in their County-Court and books against the statute, or any Bailiff of the Hundred for not warning the defendant in such a plaint according to his precept from the Sheriff or Under-sheriff ; and if he thereby find them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination; and these examinations the Justice must certifie into the Exchequer within a quarter of a year, on pain of forfeiture of 40 shil. for every default, 11 H. 7. 15. Lam. 201. Dal. 137.

Sheriff entring plaints in any mans name that is not present in Court, nor hath any sufficient attorney or deputy, loseth 40 shil. Lam. 431.

So if he enter more plaints then the plaintiff supposeth he hath cause of action for, 11 H. 7. 6. 15. Lam. 431.

Pond and Pond-heads, *vide* Fish.

Poisoning, *vide* Murder.

L

Pope.

To extol the power of the Pope by writing, cyphering, printing, preaching, or any speech, open deed or act advisedly holden or stood with, to extol or defend the power of the Bishop of Rome or of his See heretofore claimed and usurped within this Realm, or to abet, procure, counsel, aid, or comfort such, is treason, for the second offence; for the first offence, *Præmunire*, *Dal. 231. Lam. 411. 5 El. c. 1.*

Presentment at the Quarter Sessions for extolling the power of the Pope of Rome, must be certified by the Justices of Peace before whom it was taken into the Kings Bench, within 40 daies after, if the term open; if not, then the first day of the next term, or every Just. lose 100 pound, *5 El. c. 1.*

Popish books.

Printer, buyer, seller, or bringer from beyond the sea of any Popish primer, Lady-psalters, &c. in any language, or other superstitious books in English, loseth 40 shil. a book, whereof one part to the King, another to the informer, a third to the poor of the parish where the book shall be found, *3 Jac. c. 5.*

Two Justices of the Peace may search the house or lodging of a popish Recusant, or whose wife is such, for popish books and reliques, and finding any unmeet for them to use, must deface and burn them, or being of value deface them and restore them to the owner, *3 Jac. cap. 5.*

Traveller with wife and children not being a rogue, dieth or runneth away, the Town where that happeneth is not bound to keep them, wherethey die, nor send them away, but onely in charity, except they become wandring rogues, *Lam. 208. Resol. 7.*

Parents able to work are to finde their children by their labour, and not the Parish, *Resol. 8.*

None is to be removed out of the Town where he dwelleth, or sent to the place of birth or last habitation, but a vagrant, nor found by the Town except he be impotent, *Resol. 9.*

Persons destitute of houses by expiration of term, or servants out of service, must provide houses for themselves and services, *Resol. 9. Dal. 99.*

Able bodies, yet idle refusing to work, and no wanderers, are not to be sent to the place of birth or last habitation, but to the house of correction, *Ref. 10.* by such a Just. of P. as may appoint overseers for the poor, 43 *El. c. 2. La. 209, & 295. Dal. 99.*

Able bodies, yet idle and refusing to work, having any lawful means to live by, are not to be sent to the house of correction, *Ref. 10. Lam. ibid. Dal. 97.*

It is fineable to remove or put any out of the parish, who are not to be put out, and such may be sent back, *Resol. 11. Dal. 98.*

None may take relief at any mans door in the parish, but by the appointment of the overseers, nor begge in the high-waies in their parish, *Ref. 15.*

Parsons, vicars, farmers, or owners of impropriations,

priations, cole-mines, or saleable woods, are to be charged with the relief of the poor, *Ref.* 18, 19.

Bishop and his Chancellour and three Just. of P. have power to examine how money for relief of the poor appointed by the statute is bestowed, and to call to account the detainers thereof, 14 *Eliz. c. 5.* & 39 *Eliz. c. 18.* *Lam.* 366.

J. of P. proved before the Judges of Assize by two witnesses to be in default about the execution of the statute for the poor, loseth five pound, 14 *El. c. 5.* *Lam.* 372.

Parents at the Qu. Sessions appointed to keep their children, or children their parents, and have not relieved them at their own charges, lose 20 shill. a moneth, *Lam.* 445. 39 *El. c. 3, 4.*

In disability of the parish or hundred to relieve the poor, the greater part of the Justices at the Qu. Sessions may rate any other parish or hundred thereto, 39 *El. c. 3.* & 43 *El. c. 2.* *Lam.* 611.

Beggers children at the Qu. Sessions may be bound to serve any subject in an honest calling, 14 *El. c. 5.* & 28 *El. c. 3.* *Lam.* 614.

Performance, or not performance of so much of the statute of 14 *El. c. 5.* for the poor as is not altered by 39 *Eliz. c. 3.* or 43 *El. c. 2.* 1 *Jac. c. 25.* is to be yearly examined at Easter Sessions, *Lam.* 620.

Overplus of the stock for maimed souldiers is to be employed by the greater part of the Justices at the Qu. Sessions to such charitable uses as are set down in the statute for the Poor, except

except by them it be reserved for future pensions, 43 *El.c. 3.*

Young children, the parents being dead, are to be set on work and relieved by the Town where they dwelled at the death of their parents, and not sent to the place of their birth, *Dal.96.*

The Justices may compel such as be of ability, to take poor children apprentices, and may binde such masters refusing over to the next gaol-delivery : so said Sir Henry Mountague at Cambridge Assizes 1618: and the statute of 43 *El. c. 2.* seemeth to warrant as much, the words whereof are to this effect :

It shall be lawful for the Churchwardens and Overseers, or the greater part of them, by the assent of two Just. of the P. to binde any such children to be apprentices where they shall see convenient cause, Dal.93. or the Churchwardens or Overseers, with the assent of two such Justices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusal to levy it upon the Just. of Peace his warrant by distress and sale of the offenders goods, Dal.93.

If the Parents without good cause shewed, refuse to suffer their children to be apprentices, the Justices may binde them over to answer their contempt ; if the child refuse, send him to the house of correction, *quousque*, &c. *Dal.93.*

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice, *Dal.96.*

Two Justices of Peace, one being of the

Quorum, may send to the house of correction or gaol such as imploy not themselves in work being appointed, 43 *El. c.2.*

Possession actual and in Law.

If after the death of *A.* another man abatech or entreth into his house forcibly before the heir of *A.* hath gotten any actual possession indeed, the heir of *A.* shall have no restitution, because he had a possession in law only, *Lam. 153. Dal. 217.*

Power of the County.

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none, *Lam. 315. Dal. 114. Cro. 62. b. nu. 22. & 64. b. nu. 49.*

Power of the county is raised without knowledge or information of a riot; if when they come they finde one, it is lawful, and they may proceed to punish it, *Lam. 316. Dal. 114. Cro. 62. b. nu. 20.*

Power of the county in suppressing a riot, *vide Riot.*

The Justices of Peace, Sheriff, or Under-sheriff, in levying power of the County, may have the aid of all the Knights, and other temporal men under that degree that are above the age of 15. and able to travel, upon pain of imprisonment, fine, and ransome to the King, *Dal. 113. Lam. 315. Cro. 157. b.* But it is referred to the discretion of the Justices how many or how few they will have, and in what sort

Power of the County. 223

fort they shall be armed, *Dal.* 113. *Lam.* 315.
Cro. 64. b. nu. 49.

One Just. of P. may take power of the county, to suppress rioters, and need not tarry till his fellows come, *Cro.* 157. b. *Dal.* 110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray, *Cro.* 158. a. *Lam.* 134.

Sheriff upon a writ of execution returned that he could not execute it for resistance, and was amerced 20 marks, because he took not the power of the county, *Cro.* 158. a. *Lam.* 157. *Dal.* 216.

Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon-time, is to be bound to his good behaviour, and have three months imprisonment, *Lam.* 416. 1 *M. c.* 3.

If the disturber of any Preacher be arrested and brought before any Justice of Peace, upon due accusation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within six daies after, another Justice joining in examination, they upon confession of the party, or conviction of two witnesses, may commit him to prison for three months, *Lam.* 195, 333. 1 *Mar. c.* 3.

Quare if all the statute of 1 *Mar.* 3. be not repealed by the general words at the latter end of the statute 1 *Eli. c.* 2. *Dalt.* 103, 104.

Sir *Nich. Hides* opinion cited that it was wholly repealed.

Precept, *vide* Warrant.

Præmunire.

Refusal to take the oath of the Kings supremacy, the first offence is *præmunire*, the second treason, 5 *El.c.1. Lam.411. 23 El.c.1.*

To aid, comfort, or maintain one that hath committed treason in using of bulls, is *præmunire*, 23 *El.c.1. Lam.413. Vide* Treason.

To hold, set forth, or defend the power spiritual of any forein Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, express deed or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *præmunire*, the second treason, 1 *El.c.1. & 5 El.c.1.* enquirable by words of 23 *El.c.1. & Lam.411.*

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authority of the See of Rome, incurreth *præmunire*, 13 *El.c.2. & 23 El.c.1. Lam.413.*

To bring from the Bishop or See of Rome, or any claiming authority from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or wear in any wise, or receive them to such intent, and not to apprehend

hend the offender, or within three daies disclose him to the Ordinary or other Justice of Peace, or within one day deliver the things received to a Just. of Peace, 13 *El. c. 2.* & 23 *El. c. 1.* *Lam. 414.*

The forfeiture in cases of *Præmunire* upon the Statute of 16 *R. 2.* is to forfeit his lands and tenements in fee for ever, his lands in tail for his life, and all his goods and chattels, and to have a perpetual imprisonment; and to be out of the Kings protection, *Cro. 14. a. Dal. 234, 235.* But *quare* if he be attainted upon 27 of *E. 3. 1.* if he appear at the day of the *præmunire* returned, *Dal. ibid. Br. Præmunire 6. Co. 11. 34. Insti. 129 & 130. at large.*

A man may not kill him which is attainted in the *præmunire* by 5 *El. c. 1.* but before he might, for they were out of the Kings protection, *Cro. 15. a. b.*

One lawfully imprisoned until the next Sessions for refusing the oath of Allegiance, and there again refusing it, incurs a *præmunire*, except married women, who are onely to be imprisoned without bail, 3 *Jac. c. 4.* & 7 *Jac. cap. 6.*

Just. of P. not disclosing nor certifying within 14 daies the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the Kings Council, 13 *El. c. 2.* is *præmunire*, *Lam. 195, 372.*

Broakers of bargains contrary to the Statute of 37 *H. 8. c. 9.* provided against usury, shall be punished as Counsellors, Attorneys or Advocates in case of *præmunire*, 39 *El. c. 18.* 13 *El. cap. 8.*

Delivering or sending any relief to a Jesuite, Priest, or other remaining in any Colledge of Jesuites, incurreth *præmunire*, 27 *Eliq. cap. 2.*

Presentment.

Presentment is a declaration of the Jurors or Officers without any bill offered before, *Lam. 485.*

It differeth from an indictment, which is the verdict of the Jurors that be charged to enquire of that offence which is offered, *Lam. 486.*

What shall be a good Presentment.

Presentment at a Sessions where the Style is in the name of three, and the presentment taken by two, *Lam. 383.*

Presentment where some of the Jurors be allied or of blood to him that procureth the indictment; but it is no discretion in the Justices to suffer such to be impanelled, *La. 398.*

Presentment of a Jury of an hundred, of an offence done in another hundred, *Lam. 399.*

“ Constable presents a fault at the Sessions
“ which belongeth to his office, which is allowed by the Enquest, it is good: otherwise it
“ shall not serve for an Endictment, *Cro. 125. b.*

“ Constables, Churchwardens, Aleconners,
“ Sides-men, may present all offences contrary
“ to 4 *Fac. c. 5.*

Presentment where all were not sworn, if the Record be that all were sworn, *Lam. 399.*

Where

Presentment. 227

Where the declaration of the Officers of the Sessions shall have the force of a Presentment.

A Justice of Peace upon his own knowledge of offences against the statute of 2 & 3 P. & M. c. 8. & 5 El. c. 13. of high-waies, *Dal.* 67. *Cro.* 125. b. 195. a. nu. 5.

Searchers appointed to examine the true making of tile, 17 *Ed.* 4. c. 1. *Lam.* 508.

Constable for sundry points in the statute of Winchester, 13 *Ed.* 1. *Lam.* *ibid.*

Amendment of a presentment, *vide Venire facias.*

Priests, *vide* Jesuites.

Principal and Accessary, *vide* Accessary.

Prison.

"Imprisonment, is the putting of a person
"from his liberty unto the custody of the
"Law, to answer to that which shall be ob-
"jected, *Lamb.* 228. *Dal.* 343.

"A man is in prison so long as he is in
"sight of his Gaoler, though he break away,
"*Dal.* 276.

"No man shall commit another to prison,
"except he be a Judge of Record, *Dal.* 344.

"Constable imprisoning a suspect for se-
"lony, may lock the stocks, and put irons on
"him, and in conveying him to the Justice
"or gaol, may pinion him, or otherwise make
"him

“ him sure that he cannot escape, *Dal.* 350.

One committed to prison for refusing to find sureties for the peace, shall remain there till he freely offer and find them, *Lam.* 93. *Dal.* 171.

One committed for denying to find sureties for the peace, may not be delivered upon the death or release of the party, without help of the Sessions or gaol-delivery, *Lam.* 93.

Quere.

One was imprisoned till he made fine for that he stood by whilest one was slain, because he did not his best to attach the murderer, *Lam.* 132.

The Sheriff or Gaoler may imprison in his house, or in the common gaol at pleasure, *Dal.* 347. *Quere Cro.* 169. b. *Lam.* 133.

Constable cannot imprison in his house but in the stocks, and that but until he may provide convenient aid to convey him to the Just. of Peace or to the Gaol, *Dal.* 348. *Lam.* 133.

Just. of Peace cannot commit felons to prisons which be not common gaols, nor make a gaol of their own houses, *Lam.* 133. *5 H. 4. c. 10. Cook* 9. 119. b. *23 H. 8. c. 2. Dal.* 347.

Justice of Peace may commit to the stocks some offenders against certain penal statutes, *Dal.* 347.

Breach of prison is the escape of a Felon, though not indicted, out of the gaol, stocks, or possession of any keeper, *Lamb.* 229. *Dal.* 275.

One imprisoned upon a *capias pro fine* is to be.

be delivered upon payment thereof, *Lam.* 574. or upon pledges by Recognizance for payment thereof, *Lamb. ibid.*

Prisoners.

Every one who is under arrest for felony, is a prisoner as well without prison, as in the stocks, in the high-way, or in the possession of him that arrested or hath the keeping of him, *Dal.* 275, 343.

To break prison is felony, being committed for felony, *Lam.* 228, 424.

"It is no matter whose prison is broken, whether the Kings or other persons, whether it be common or private gaol, or the Constables house, or others house who hath the custody of him for felony, *Dalt.* 275. *Stam.* 31.

Rescous to help a prisoner committed for felony to get away, is felony, *Lam.* 229, 424.

If an officer or other whatsoever by his willfull default suffer a prisoner to escape, it is felony, *Lam.* 229, 424.

Prison-breach is to escape out of the stocks, or out of any mans possession, *Lam.* 229.

"A Constable voluntarily suffereth a thief to drown himself; it is felony in the Constable, *Dal.* 276. but if the thief kill, hang, or drown himself, it is a negligent escape, *Dal. ibid.*

Prisoner of sufficient ability shall bear his own charges, and of them that shall be appointed to guard him to the gaol, and he refusing,

refusing, the Constable of the parish where he dwelleth, by warrant from the Justice that committed him, may levy the same by distress and sale of his goods after apprizement by four of the parish, the overplus to be delivered to the owner, 3 *Fac.c.10.*

Prisoner not of ability, and those that guard him, to have their charges from the place of apprehension to the gaol born by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, and two or three of the Inhabitants, and allowed by the Just. of Peace, 3 *Fac.c.10.*

Any lawfully taxed for the charge of bringing a prisoner to the gaol, and refusing to pay it to the Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levy the same by distress, and (after apprizement by four of the parish) sale of the goods, giving the owner the overplus, 3 *Fac.c.10.*

Defendant in any action for a distress taken by force of the statute of 3 *Fac.c.10.* may plead not guilty, and give the special matter in evidence, and upon recovery or non-suit shall have treble damages, 3 *Fac.c.10.*

Prisoners discharged by Justices of Peace who take the indictment to be void, may be stayed if they change their opinion before judgement, *Lam. 540.*

“A man outlawed for felony is imprisoned
 “amongst traitors, and breaking prison setteth them loose, this is rescous of a traitor,
 “and treason, *Cro. 35.a. nu. 5, 6.*

Privy Sessions, *vide* Sessions.

Process.

Process hath the name because it proceedeth or goeth out upon former matter either original or judicial, *Lam.* 519.

Suggestions and informations, whether by word or writing, are but to stir up the Justices to commend the cause to the Inquest, and not to award process upon them, *Lam.* 509. unless it be in certain causes where it is especially given them by statute, *ibid.*

Authority to make process upon endictments is given to the Justices by words of their commission, or by implication where the power of hearing and determining is given by their commission, *Lam.* 520.

"Process ought alwaies to be in name of
"the King with *Non omittas*, &c. with *Teste*
"of any two Just. under their hands sitting in
"Court, *Lam.* 520. *Dal.* 412.

No process, plea, or suit, is to be discontinued by making a new commission of the Peace, 11 H.6.c.6. & 1 Ed.6.c.7. *Lam.* 520. See the end of 1 E.6.c.7.

Process upon all endictments of trespass against the Peace or upon special statute is *Venire facias*; and if he be thereupon returned sufficient, then a *Distringas infinite*; if he be returned *Nihil habet*, then *Capias alias*, *pluries*, *Exigent.* *Lamb.* 522, 523. *Dal.* 412.

Process upon the statute of unlawful games, liveries, maintenance, archery, &c.
Venire

Venire facias, Capias, Exigent, 33 H. 8. c. 10.
Quare if it be not repealed by 37 H. 8. c. 7.
Lam. 523.

Process upon the statute of Victuals, attachments, *Capias, Exigent*, *Lam.* 523, 524.

Process upon depraving the Sacrament is two *Capias, Exigent, Capias utlegatum*, and may be sent by any three Justices into any shire, one being of the Quorum, *Lam.* 524.

Just. of Peace may award process into a foreign county against an accountant for money levied for making a gaol, 25 H. 8. c. 5. 5 *El.* c. 24.
Lam. 525.

Justices of Peace where the servant departed, may award a *Capias* to the Sheriff of the shire whereinto he departed, returnable before themselves, 5 *El.* c. 4. So where a decayed bridge is in one county, and the party or land chargeable do lie in another county, *Lam.* 525. 22 H. 8. c. 5.

One indicted of treason or trespass in one county, is imprisoned in another; the Justices may award *Habeas corpus* to remove him before themselves, *Lam.* 526.

Process upon indictment of felony may be sent into any foreign county, 5 E. 3. c. 11. *Lam.* 527.

Process upon indictment of felony is two *Capias* and an *Exigent*, 23 E. 3. cap. 14. *Lam.* 528.

Indictment of treason, felony, or trespass in one county nameth the indicted to be of another; the first process shall goe into the county where he is indicted, the second to the county where he is named, to be returnable
 three-

three months after : and if he be not to be found there , then that Sheriff to make proclamation at two County Courts before the return, that he appear before the Justices of the County where the indictment is at the day in the *Capias* ; and if he appear not , an *Exigent* to be awarded , 8 H.6. c.10. *Lamb.* 525, 526.

The two Justices of the Peace which have the over-sight of the Sheriffs books and of the americiaments , upon suggestion may make process as in an action of trespass against the offenders of that statute to answer before them, 11 H.7. c.15. *Lam.* 360.

No process is to be awarded by the Justices after outlawry, but they are to certifie the outlawry into the Kings Bench, *Lam.* 521, 522.

Process upon informations must be such as the statute whereupon they are grounded doth appoint, *Lam.* 528.

The Sheriff or his minister that hath arrested, or caused any fine, ransome, or americiament to be levied by reason of indictment or presentment at the Sheriffs turn or law-day without process from the Justices , loseth 40 pound, 1 E.4.c.2. *Lam.* 431, 521.

Informations made in the Sessions that an alehouse-keeper hath done any thing whereby he hath forfeited his recognizance, the Justices of P. may award process against him, to shew cause why he should not forfeit his recognizance, *Lam.* 524. but *quare* what process, *Lam.* 524.

Process

Process cannot be awarded by the Justices of Peace upon any forfeited recognizance, except ale-houses, but they must certify them to the higher Courts, *Lam. ibid.*

Proclamation.

Justices of Peace cannot acquit felons by Proclamation, or without sufficient acquittal; and if they cannot indict them, they must remain till the gaol-delivery, *Lam. 549, 550.*

The form of Proclamations to remove a force upon a writ upon the statute of Northampton, *vide Lam. 168, 169. Dal. 61, 62.*

Constable, if any affray be dangerous, may make proclamation, *Lam. 132. Dal. 33. maketh a quare.*

One Justice of Peace may make a proclamation in the Kings name to stay a riot, *Lam. 183. Quare, for the statutes 1 M. 12. 1 El. 64. 19. are expired.*

Justices of Peace at every Sessions use to make proclamation, that if any will inform for the King, he shall be heard, *Lam. 520.*

Proclamation annexed to the statute of 4 H. 7. c. 12. is to be read every Q. Sessions, or every Justice present toleth 20 shill. 4 H. 7. 12. *Lam. 633. Quare if of force now.*

Promoters, *vide* Informers.

Prophefying.

Prophefier with intent to make rebellion,
dis-

diſſention, loſs of life, or other diſturbance in the Realm, being convicted thereof before the Juſtices of Peace, ſhall be imprifoned one year without bail for the firſt offence, and forfeit alſo ten pound 3 for the ſecond offence imprifoned all his life, and loſe all his goods and chattels real and perſonal, and to be impeached within ſix moneths, 5 *El.c.15. Lam.415.416.*

Purveyors.

If purveyors, caterers, or ſervants of any man but the King, take any thing without the owners will, or as they can agree and make preſent payment, it is felony, *Lam.231. Dal.282. Cro.48.a.*

Purveyour ſhall not take cart or other proviſion of any Prelate or Clerk.

Purveyour, his deputy, undertaker, or ſervant, maketh purveyance without warrant of any thing above 12 pence, without conſent of the owner, it is felony, 2 *Q 3 P. Q M.c.6. Lam.422. Dal.286. Cro.48.a.*

Purveyour taking any carriage in other manner then is comprised in his commiſſion, it is felony, 36 *Ed.3. cap.2. Lam.423. Dal.286.*

Or any purveyance without commiſſion under the great Seal, *Dal. ibid. Cro.48.b.* it is felony.

Or make purveyance of goods above 12 pence, without testimony and apprizement of the Conſtable and four honeſt men of the town, and without delivering tales or Indentures

tures under his seal testifying his purveyance, it is felony, *Lam.* 423. *Dal.* 286.

Quare if it be but of the value of 40 shill. or under. *Quare* by whom the apprizement shall be made, and between whom the Indentures shall be made, *Dal.* 287.

To take more victuals or carriages for the Kings house, then he shall deliver to the same house, is felony, *Dal.* 287.

To take sheep in their wools betwixt Easter and Midsummer at small prices, and to carry them to his own house to shear them, *Lam.* 423. *Dal.* 286. 23 *E.* 3. cap. 15. is felony.

Quare if the felony of purveyours by 36 *E.* 3. c. 6. be not altered by 23 *H.* 6. 1 & 2.

Purveyour taking any thing of the value of 40 shillings or under, without present payment, loseth double the value of the thing taken; and the Constable upon request made, not aiding him to resist the purveyour so taking, loseth double damages.

And any of the Kings officers procuring any to be arrested or vexed for such resistance, loseth 20 pound, 20 *H.* 6. c. 8. & 23 *H.* 6. c. 2. *Lam.* 439.

Purveyour taking any thing of any man to spare him, is to be imprisoned two years, pay treble damages, and ransome, *Lam.* 439.

Purveyour taking corn by other measure then the stricken bushel, or by any more then eight such bushels to the quarter, and that hath taken carriages therefore without making ready payment, is to be imprisoned one year, and pay five pound unto the King,
and

and 5 pound unto the party, 25 E. 3. cap. 1.
36 E. 3. c. 3. & 1 H. 5. c. 10. Lam. 439.

Purveyour of timber or his deputy, causing any timber to be felled fit for barking, but onely in barking time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then onely the timber, loseth 40 shill. for every tree, Lam. 438, 439.
1 Jac. c. 22.

Dockets of Purveyours ought to be delivered over to the Justices of Peace at the next general Sessions, and by the Justices to be certified to the Treasurer of the Kings household, 2 & 3 P. & M. c. 6. Lam. 614.

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, if not as a felon, Dal. 287.

Undertakers, deputies, servants, and all other which under colour of the Kings Commission to the Kings Purveyours, do take any victuals against the statute, are liable to the pains therein mentioned against purveyours, 2 & 3 P. & M. c. 6. Cro. 48. b.

Just. of Peace are to certify to the Treasurer of the Kings household the dockets of purveyours (brought to their Sessions by Constables) that the serving of such Commissions and the true answering of purveyances may be better examined thereby, Lam. 590. 2 & 3 P. & M. c. 6.

Putting

Upon malice prepenſed to put out any ones eyes, is felony, 5 H.4.c.5. Cro.49.a. Lam.256, 420. Dal.280.

Quarter-Sessions, *vide* Sessions.

Rape, or Ravishment.

DEflowring of a maid under ten years old, with, or without conſent, is felony without Clergy, 18 El.c.6. Lam.256, 421. Dal.290. Cro.47.b.

Raviſhing of a woman againſt her will, without conſent either before or after the fact, or being with force, though after ſhe do conſent, is felony without Clergy, *West. 1. c.34.* 18 El.c.6. Lam.256, 421. Cro.47.b. Dal.290.

To be preſent and aiding the raviſher, is rape, Lam.258. Cro.47.b. Stam.24. Dal.290.

No rape where the party deflowred conceiveth with child, Lam.257. Dal.289. Cro.47.b. Stam.24.

Deflowring of one kept as the deflowers concubine, is a good plea upon an appeal that it is no rape; otherwiſe of another mans concubine, Lam.257. Cro.47.b. Stam.24. Dal.290.

Force without carnal knowledge is no rape, Lam.257, 258.

See the Stat. de Officio Coronatorii made 4E.1.
Com-

Rape and Ravishment. 239

Complaint must be made within forty daies, but otherwise in an appeal.

A woman that is ravished ought presently to levy hue and cry, and to complain thereof presently to some credible persons, *Dal.* 289. *Cro.* 100. a. *Stam.* 22. in indictment of rape, no time to be observed.

To ravish a woman who consenteth for fear of death, &c. is ravishment; for consent ought to be voluntary and free, *Dal.* 290. *Cro.* 48. a.

"Consenting after rape doth not hinder
"but that the husband, and if she have no
"husband, the father or next of blood may
"pursue the ravisher, to have him convicted,
"P. R. 133.

Rates, *vide* Taxations.

Rebellious assemblies.

The statutes 1 M. 12. and 1 Eliz. are discontinued, *Dal.* 222.

Recognizance.

Recognizance is a bond of Record testifying the Recognizer to owe a certain sum of money to some other, and the acknowledgement of the same is to remain of record, and none can take it but only a Judge or Officer of Record, *Dal.* 334.

Every Recognizance taken by a Justice of Peace, must be made by these words, *Domino Regi*, upon pain of imprisonment of any person that shall take it otherwise, 33 H. 8. c. 39.
Cro.

Cro. 196. b. nu. 11. Lam. 162. Dal. 175. 379.

Sureties in Recognizances ought to be Subsidy-men, and they must be two besides the party himself, *Lam. 101. Dal. 175.*

It is in the discretion of a Justice of Peace, if he take a recognizance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the sum of money, and how long he shall be bound, *Dal. 174. Lam. 100.*

If a Justice of Peace be deceived in the ability of the sureties, he may compel the party to put in another, *Lam. 100. Dal. 178.*

Recognizance of the Peace, without expressing in the condition that it was for keeping of the peace, seemeth void, *Lam. 103. Dal. 175.*

So it is if a recognizance be that a recognizer shall not maim or beat *A.* without expressing keeping the peace, *Lamb. 103. Dal. 175.*

Recognizance comprehending no time of appearance, but generally to keep the peace, is good, *Lam. 103. Dal. 176.*

Recognizance for the peace upon a *supplicavit*, is not of necessity to be returned until *certiorari*, *Lam. 109. Dal. 177.*

Recognizance taken to keep the peace against one especially, *quare* if it be good, *Lam. 104. Dal. 176.*

“ Recognizance taken to be levied only of
“ the goods or only of the lands of the recognizer, seemeth to be good enough, *Lam. 104.*
“ *Dal. 167.*

“ Wife or infant under the age of discre-
“ tion

tion are to be bound to the peace by their sureties only, *Lam. 101.*

Recognizance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*, *Lam. 109. Dal. 178.*

Recognizance not forfeited is discharged by the death of the King, of the cognizer or the party suing for it, if it were against him alone, *Lam. 113. Dal. 141.*

The sureties dying, the recognizance is good against the executors, *Lam. 113. Dal. 141.*

Recognizances taken are to be certified notwithstanding the death of the King, *Lam. 103.* or of the recognizer, or of the party at whose suit it was granted, *Lamb. 113.*

The Recognizance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison, *Lamb. 114. Dal. 163.*

Recognizance of the peace brought into the *Custos Rotulorum*, and not pursued by the party, may be called upon for the King by the Clark of the Peace, *ibid.*

Justices of the Peace cannot award process upon a forfeited Recognizance, but it must be certified into the higher Court, except recognizance for alehouses, *Lam. 589. Dal. 177. 610. 167. a. & 196. b. nu. 9.* and the cause of the forfeiture, *Dal. 177.*

Recognizances or examinations taken concerning suspects or felons, are to be certified at the next general gaol-delivery, 2 & 3 P. & M. c. 10. *Lam. 212.*

Recognizances taken by a Justice of Peace

242 Recognizance.

ex officio, are to be brought into the *Custor Rotulorum* at the next general Sessions, *Lam.* 109. *Dal.* 177. *Cro.* 139. a. but no pain by the statute of 3 *Hen.* 7. 1. if he do not, *Br. Peace* 11.

None but the King can pardon a Recognizance once forfeited, *Lam.* 111. *Cro.* 140. b. *Dal.* 181.

“ Recognizance taken where the Just. hath
“ no authority, is void. And taken by au-
“ thority, if the Justice insert other matter, it
“ is void, *Cro.* 196 b. *nu.* 7.

“ A Recognizance taken by a Justice of P.
“ is a matter of Record so soon as it is taken
“ and acknowledged, although it be not made
“ up, but entred into his book, nay, although
“ it be not entred, *Dal.* 336. *Stam.* 77. b. E.
Brook Record 58.

Reconciliation, *vide* Treason.

Records.

Records be nothing else but memorials or monuments of things done before Judges that have credit in that behalf, *Lamb.* 63.

If a Record say any thing, no man shall be received to aver or speak against it, *Lam.* 63.

The Judges may correct or amend any Record in the term wherein the Record is to be made, but after they have no power at all over them, *Lam.* 64.

The Record or Testimony of a Justice of Peace is in some cases of greater force then
an

an indictment of a Jury, and against it the party shall not be admitted to traverse, *Lam. 65.*

Embezzelling of a record is felony, but not to be dealt withall by Justices of Peace, *Lam. 232, 549.*

Precepts for surety of the Peace, special Records for conviction of forcible entries, made out of the Sessions, are not records of Sessions, *Lam. 389.*

Records of causes determinable at the Sessions taken by the Justices of Assize at their Gaol-delivery as Justices of Peace, are to be left with the Clark of the Peace to be brought to the next Sessions of the Peace, *Lam. 391.*

One pleadeth a record before other Justices by way of justification, the Justices ought to give him day to bring in the record, *Lam. 555.*

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezzelling, wilful rasing of an indictment, or maliciously enrolling that for an indictment which was not found, or changing an indictment of trespass into an indictment of felony, loseth his office, and shall be fined and imprisoned according to his offence, *Lam. 631.*

“To rase a record is felony; yet if a Judge doe embezel or rase a record, it is but misprision in a Judge, *Dal. 283. Br. Coron. 174. & Treason 31.*

“Embezzelling of any record, writ, return, penal, process, or warrant of Attorney
M 2 in

“in Chancery, Kings Bench, Exchequer,
 “Common pleas, or Treasury, is felony in the
 “parties, their counsellors, procurers, or abet-
 “ters, *Dal. ibid.*

“But it seemeth that Justices of Peace have
 “not to do with these felonies, *Lam. 549. Cro.*
 “56. 8 H.6. c. 12. *Dal. 283.* for that these re-
 “cords do not remain with the Justices of
 “Peace, *Cro. ibid.*

Recusants.

Wilfully absenting themselves from Church
 12 moneths, contrary to 1 *El. c. 2.* and convic-
 ted, being of 16 years of age, are to be bound
 to the good behaviour, upon certificate of one
 Justice of Peace to the Kings Bench, 1 *Eli.*
2. besides other penalties, 23 *Eli. Dal.*
104.

Every Justice of Peace may give notice to
 any person to forbear to receive or keep such as
 shall obstinately refuse to come to the Church
 by the space of a moneth together, 35 *Eli.*
cap. 1.

Heir of a Recusant being a Recusant at his
 Ancestours death, conforming himself, and ta-
 king the oath of supremacy made 1 *Eli.* before
 the Archbishop or Bishop of the Diocesis, shall
 be free from penalties for the recusancy of his
 ancestour, 1 *Fac. c. 4.*

Heir of a Recusant being under 16 years
 at the death of his ancestour, at or after 16
 years becomes a Recusant, he is not to be
 freed of his ancestours penalties for recu-
 sancy, till conformity as aforesaid, 1 *Fac. c. 4.*

Two parts of Popish Recusants lands being seised for payment of 20 pound a moneth, the third is not to be charged with it, but is to descend to his heir, and the two parts to remain in the Kings hands till he be satisfied thereof both for the ancestour and heir, 1 *Fac.*

cap. 4.

Any sending his children beyond the seas out of the Kings dominions to any religious house, to be instructed or strengthened in Popery, loseth 100 pounds, and the person so going, or being there, and not returning within one year, and submitting, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions, till conformity, 1 *Fac.*

cap. 4.

Estates in trust for benefit of any sent beyond the sea to any religious house to be instructed in Popery, are void, 1 *Fac. c. 4.*

"J. of P. not certifying at the next Qu. Sessions the oaths taken of any reconciled to the See of Rome, upon his submission, returning into the Realm, doth forfeit 40 pounds, 3 *Fac. c. 5. Lam. 633.*

Forfeitures upon the statute of 1 *Fac. cap. 4.* against Popish Recusants, half to the King, and half to the suer in any the Courts of Record at Westminster by action of debt, &c. 1 *Fac. c. 4.*

Popish Recusant conforming himself in coming to Church according to the law, and after convicted for not receiving the Sacrament once every year, loseth for the first year 20 pound, for the second year 40 pound, for the third year 60 pound:

And if after conformity in receiving the Sacrament; he offend therein, he loseth for every offence 60 pound, one moiety to the King, the other to the Informer, to be recovered in any of the Kings Courts at Westminster or before the Judges of Assize, or Justices of the Peace at their Qu. Sessions by action of debt, &c. 3 *Fac. c. 4. Lam. 418.*

Constables and Churchwardens, or, for want of them, the high Constable once every year, are to present the monthly absence of Popish Recusants from Church, with the names of the servants and children above nine years old, or lose 20 shillings for every offence, and upon their conviction to have 40 shillings out of their goods, 3 *Fac. c. 4. Lam. 616.*

Clark of the Peace is to record the Presentment of Constables and Churchwardens for monthly absence from Church, without fee, or loseth 40 shill. 3 *Fac. c. 4.*

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and be determined by the Justices of Peace at their Qu. Sessions, as Justices of Assize might before, 3 *Fac. c. 4. Lam. 617.*

Upon an indictment for not coming to Church, or not receiving the Sacrament, Justices of the Peace at their Qu. Sessions may by proclamation command the indicted to render his body to the Sheriff before the next Qu. Sessions or Assizes, and in default of appearance, then the same to be a sufficient conviction, 3 *Fac. c. 4. Lam. 616.*

Popish Recusant convicted of not coming

ming to Church according to law, shall in Easter or Michaelmas term next after the conviction, pay into his Majest. receipt after the rate of 20 pound a month, and so to continue without any other indictment, till he conform himself; and in default of payment, all his goods and two parts of his lands to be seised till conformity, leaving the mansion-house to the third part, 3 *Fac. c. 4.*

The King seising two parts may not let it to any Recusant, nor for their use, and the lessee must give security to the King not to commit waste, 3 *Fac. cap. 4.*

Indictments against Popish Recusants are not to be avoided for want of form until conformity, 3 *Fac. cap. 4.*

Justices of Peace may hear and determine all offences against the statute 3 *Fac. cap. 4.* except treason, 3 *Fac. cap. 4. Lam. 617.*

Attainder of felony upon the statute of 3 *Fac. c. 4.* of Popish Recusants, barreth not tower, nor corrupteth blood, 3 *Fac. c. 4.*

Any pursued for doing any thing warranted by the statute of 3 *Fac. c. 4.* may plead the general issue, and give the special matter in evidence, 3 *Fac. c. 4.*

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 *Fac. c. 4.* for not receiving the Sacrament, nor the wife after his death.

Popish Recusant convict, coming to the Court where the King or his heir apparent is, without the Kings command, or warrant in writing from the Council, loseth 100 l. 3 *Fac. c. 5.* the one half to the prosecutor.

Recusants convicted or other forbearing for three months to hear divine service, now dwelling in London or within ten miles (except tradesmen having no other dwelling) are to depart within forty daies, and if they come to dwell there within three months, then to depart within ten daies after conviction, and to deliver their names to the Maior of London or the next Justice of the County, or lose 100 pound, 3 *Fac. cap. 5.* the moiety to the prosecutor.

Every one not repairing every Sunday to some usual place appointed for Common-prayer, there to hear divine service, upon conviction within one month after default, upon confession, or oath of one witness, one Justice of P. may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levy twelve pence for every default by distress and sale of the offenders goods; and in default of distress the Justice may commit him till he pay it, which is to be imploied for the poor, 3 *Fac. c. 4. Dal. 105. Coke 11. 61. b.*

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, remain in their service any absenting themselves a month together from Church without reasonable excuse, lose ten pound a month, 3 *Fac. cap. 4.*

The King or five Lords of the Privy Council may by writing under the hands of the Privy Council licence a Popish Recusant

stant confined five miles, to travel out of his compass for such time as is contained in the licence, without inserting any cause, 3 *Fac. cap. 5.*

Popish Recusant confined to five miles, informing upon oath four Justices of Peace that he hath necessary occasion to travel farther, and that he will make no causeless staies, they with the assent of the Bishop of the Diocess, Lieutenant or his Deputy, under their hands and seals, and specifying in their licence the cause and time of travel, may by licence under their hands and seals give liberty to him to travel forth of his compass, all other licences to be void; and any traveling without such licence, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35 *Eliz. cap. 2.* 3 *Fac. cap. 5.* *Dal. 109. Lam. 365.* and any one of the four Justices may minister the oath, 3 *Fac. cap. 5.* *Lam. 296.*

Statute 35 *El. c. 2.* confining Popish Recusants to certain limits is hereby confirmed, and the proviso for licensing them to goe beyond their limits is hereby repealed, 3 *Fac. cap. 5.*

Popish Recusants convicted are not to practice the common or civil law, nor physick, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or Officer in any Court, nor to have any place of command, or office in warre, nor any office or charge in any ship, castle or fortress of the Kings, on pain of 100 pound, one moiety to the King, the

other to him that will sue, 3 *Jac. cap. 5.*

Popish Recusant convicted, or whose wife is a Popish Recusant, during recusancy not to execute any publick office or charge in the Realm, 3 *Jac. c. 5.*

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her self according to law, forfeiteth to the King two parts of her dower or joynure, and is disabled to be executrix or administratrix to her Husband, 3 *Jac. c. 5.*

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seized by the King, 3 *Jac. c. 5.*

Recusant convicted, married otherwise then by a Minister lawfully authorized, and according to the orders of the Church, is disabled to be tenant by courtesie, or in dower, or by joynure, or to have widows estate, or frankbank, or any part of her husbands goods; and marrying any, by whom he is not intituled to be tenant by the courtesie, loseth 100 pound, one moiety to the King, the other to him that will sue, 3 *Jac. c. 5.*

Child of a Popish Recusant not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth 100 pound, whereof one third part to the King, another to the poor of the parish, and the third to him that will sue, 3 *Jac. c. 5.*

Popish Recusant not excommunicated, buried otherwise then according to the orders

ders of the Church, his executors or administrators knowing it or causers of it, lose 20 pound, one third part to the King, one third part to the poor of the parish, and one third part to him that will sue for it, 3 *Fac. c. 5.*

Popish Recusant convicted, during his conviction, to be from the ending of that Parliament disabled to grant any advowson, &c. or to present or nominate to any spiritual living, the same to remain to the Chancellors of the Universities of Oxford and Cambridge, according to the several shires limited in that statute, so that they present none having a former benefice with cure; if they do, the same to be void, 3 *Fac. c. 5.*

Penalties upon the statute of 3 *Fac. c. 5.* against Recusants to be recovered in any His Majesties Courts of Record by action of debt, bill, plaint, or information, without essoin, protection, or wager of law, 3 *Fac. cap. 5.*

Married woman under Baronets, convicted of not coming to Church, and of not receiving the Communion, who doth not within three months after conform her self, to be committed by two Justices of the Peace, one being of the *Quorum*, until conformity, unless her husband pay 10 pound a month to the King, or the third part of his lands, 7 *Fac. c. 6.*

The penalty of 12 pence, and of 20 l. a month, shall be both of them paid by a Recusant convict, *Dal. 106. Co. 11. 63. b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who repaireth

paireth not to the place of his dwelling, or place of his birth, there to notifie himself to the Minister and Constables according to the statute of 35 *Elix.* or afterwards removeth five miles from the same, (if upon apprehension he conform not himself within three months) to abjure the Realm, and assign him his time and haven, 35 *El.c.2.* *Dal. 109.*

The form of the Oath.

You shall swear you shall depart this Realm of England, and all other his Majesties dominions, and that you shall not return hither or come again into any of his Majesties dominions without licence of our Sovereign Lord the King or of his heirs; so help you God, *Dal. 109. Stam. 119.*

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed go to such haven and depart, or after such abjuration returneth without his Majesties special licence, in every such case shall be adjudged a felon, 35 *El.c.2.* *Dal. 109. Lam. 419. 1 Fac.c. 25.*

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred of Record before them, and certifie it at the next general gaol-delivery in the said county, *ibid.*

The Bishop of the Diocess or any one Just. of Peace, or Minister of the parish where such convicted Recusant shall be, may require his submission, *ibid.*

Justices of Peace at their Quarter Sessions may inquire, hear and determine of all
Re-

Recusants both for not coming to Church, and not receiving the Sacrament according to law, as Just. of Assize and gaol-delivery may do, and at the Sessions (in which such Indictment shall be taken) make proclamation to render their bodies to the Sheriff, and before the next Quarter Sessions, at which if the offender make not appearance of Record, it shall be a conviction, 3 *Jac. cap. 4. Lam. 616.*

“Popish Recusant convicted is disabled
“to be executor, administrator, or guardian:
“the guardianship to go to the next of
“kin to whom the land should not come, being
“no Recusant; and he to account to
“the heir, as the case shall require, 3 *Jac. cap. 5.*

“Recusants armour, gun-powder and munition,
“by warrant of four Just. of P. in their general
“Sessions, shall be taken from them, (other then
“necessary weapons allowed by the said Justices
“for their defence) and kept at the Recusants
“costs, where the Justices shall appoint. And the
“Recusant, refusing to tell what armour he hath,
“or disturbing the delivery thereof, forfeiteth
“the armour, and is to be imprisoned for three
“months without bail, 3 *Jac. c. 5. Lam. 617, 618.*

Regrator.

Regrator is he that buyeth live or dead
“vituals, tallow, or candles in the market,
“and selleth the same there, or within 4 miles,
13 *El. c. 25. Lamb. 450. 5 Ed. 6. c. 14. 5 El. c. 12.*
Release.

Justice of Peace compelleth one of his own motion to give surety of the peace until a certain day, he may by like discretion release it before the day, *Lam.* 110. *Cro.* 139. b. nu. 16. *Dal.* 179.

Party bound generally to keep the peace without any day limited; it is for life, and no man can release it, *Lam.* 110. *Dal.* 179. *Cro.* 142. b. *Brook Peace* 17.

Recognizance is taken at the suit of *A.* to keep the peace against him only, *A.* may release it before the same Justice or any other that will certify it, *Lam.* 110. *Dal.* 179. *Cro.* 139. b. nu. 10. 169. a. That release being certified at the next Quarter Sessions will discharge the party bound of his appearance, so that he shall not be called upon for his recognizance, *Dal. ibid.* *Cro.* 139. b. nu. 15.

Recognizance is taken *versus cunctum populum, præcipue versus A.* yet *A.* may release it before any Justice: *tamen quare*, *Lam.* 110, *Cro.* 142. b. *Bro. Peace* 17. *Dalt.* 180.

Recognizance is taken by discretion or upon suit, the King cannot release or pardon it before forfeiture, *Lam.* 111. *Cro.* 140. b. 141. a. *Dal.* 180.

The peace being released, the recognizance must not be cancelled, but certified at the Sessions with the release, lest peradventure the peace was broken before the release made, *Lam.* 111. *Dalt. ibid.* *Cro.* 139. b. nu. 16. 169. a.

Whether the good abearing taken upon complaint may be released by any special person, *Quare Lam.* 123. *Dal.* 197.

Release.

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Neither the Justice of the Peace, nor the party can discharge a recognizance of the Peace by the release out of the Sessions; for first the recognizance is made to the King, and therefore none but the King can release or discharge it. Secondly, the recognizance is taken for the parties appearance, and the release cannot discharge the appearance, *Dal.* 180. *Brook* Peace 17.

The appearance is requisite, notwithstanding any release made; first, for the safety of the recognizance; secondly, that others may object in open Sessions, if he have broken the Peace, that he may be indicted thereupon, *Dal.* 180.

E contra Cro. If the Justice of Peace at the Sessions do certify the release, by this the obliged is discharged, and shall not be called upon for his recognizance, nor his default recorded; for the principal cause of the recognizance was the keeping of the Peace, the which is discharged by the release which is certified at the Sessions, and then the appearance is but accessory to the same, and the intent is onely that then he should finde new surety if the party will not release; and this is the common usage, *Cro.* 139. *nn.* 15.

Vide plus Recognizance, & Forfeiture.

Religious Houses.

The owner of the site of a religious house dissolved, in yearly value under 200 pound, must keep a continual house there, or lose

20 nobles a moneth, to be enquired of and determined at the Quarter-Sessions, 27 H.8.c.22.
5 El.c.2. Lam.471.

Replevin, *vide* Bailment.

Rescous of a Felon.

Rescous is to help a prisoner to get away; and if it be a felon, it is felony, Lam.229. Dal. 274.275.

Rescous of a felon before arrest is no felony, otherwise after arrest, Lam. 230. Dal.276. *Quere Stam.*31.

Rescuing a prisoner going to the gallows is felony, Dal.276.

A warrant being granted by a Justice of the Peace for unlawful hunting of Deer or Conies, to make rescous thereupon is felony, Dal.75.

Rescous against an officer or person authorized to execute the statute of 39 El.c.4. loseth 5 pound, and is to be bound to his good behaviour, Dal.128.

“ If a stranger take one out of prison with
“ the prisoners assent, if he be in for felony, it
“ is felony by the common law in the rescuer,
“ and he is a principal by the statute *De prisonam frangentibus*, Cro.38.a. nu.2.

“ One is in the stocks for suspicion of felony, and is let out by a stranger; it is felony,
“ although the party who escaped is not indicted, Cro.35.3. nu.3.

Resti-

Restitution of Possession.

None shall have restitution but such as are put out of house or land, *Dal.* 214. *Cro.* 162. b. *Lam.* 153.

If it be found upon enquiry that any have entred or held with force, contrary to the statute 8 H. 6. c. 9. the Justice of Peace may re-seise and put the party so put out in full possession, *Cro.* 161. b. *Dal.* 214. but the putting out must first be found, *Lam.* 152. *Cro.* *ib.*

The Justice of Peace needeth not to stay or stand upon the right or title of either party, *Dal.* 214. *Cro.* 164. a.

No restitution is to be made where there was only a possession in law, *Lam.* 153 *Dal.* 217.

In a restitution it is not enough that the putting out be found, unless the Indictment do also contain in it *adhuc extra tener*, *Dal.* 214. *Cro.* 163. b. *Lam.* 153.

Restitution ought to be made to none other then the party put out, *Dal.* 214. *Cro.* 162. b. *Lam.* 153.

After the entring or detaining with force found, the Justice of Peace may by himself or precept to the Sheriff under the test. of himself alone restore the party grieved to his possession, *Dal.* 216. *Lam.* 156.

None can make restitution but they before whom the Indictment is found, but the Justices of the Kings Bench, either upon certificate made by the Just. of P. before whom it was found, of the presentment, or if the said presentment or indictment be removed by *Certiorari*, *Dal.* 216. *Lam.* 157, 158.

If the Sheriff return upon a precept or writ

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writ of restitution that he cannot make restitution for resistance, he shall be amerced, for he may take the power of the county, *Dal.* 216. *Lam.* 158. *Cro.* 163.b.

Justice of Peace before whom the presentment was made, dieth before restitution; *quare*, whether the Justices at the Sessions can award it, *Lam.* 157.

Justices of Peace ought not to award restitution where the indictment is insufficient in Law, either in matter or form, *Dalton* 215.

In the Indictment, 1. not only an entry must be, but also a putting out: 2. the Indictment must express the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable: 3. it must say, *Et adhuc extra tenent*: 4. *Expulerunt & adhuc extra tenent*: 5. one of these two words, *manu forti*, or *cum multitudine*, *Dal.* 214, 215. *Cro.* 169.b. 163.b. *Lam.* 153.

If error or insufficiency be in the Indictment taken before Justices of Peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *Superfedeas*, if the Sheriff have not made restitution before, *Dal.* 214. *Cro.* 162.a.

If restitution be made by Justices upon an insufficient Indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Just. of Peace, *Dal.* 215. *Cro.* 168.3.

Causes to stay restitution.

1. No restitution upon an Indictment to be

Restitution of possession. 259

be made, if the party indicted hath had the occupation, or been in quiet possession three years together, next before the day of the indictment found, and his estate not ended, which the party may alledge for stay of restitution, until it be tried, if the other will traverse or deny the same, 31 *Elix. cap. 11. Dal.* 219.

2. *Certiorari.*

3. A traverse : *quare Lam. 158.*

4. Insufficiency of the indictment.

5. Insufficiency of the Jurors not having 40 shill. land by the year, *Dal. 218. Lam. 152. Cro. 165. b. Quare.*

Justice of Peace upon indictment found, may give restitution as formerly to free-holders, to tenants for years by copy of Court, guardians in Knights-service, tenants by *Elegit*, *stat. Merchants or Staple, Dal. 207. 21 Jac.* 6. 15.

"The disseisee outeth the disseisor by force,
"the disseisor shall be restored, *Lam. 148. Dal.* 217.

"Upon traverse the Justice may stay restitution, *Dal. ibid.*

"The disseisee entreth peaceably, and keepeth out the disseisor by force; the disseisor shall not be restored, because the disseisor had the younger title. But the disseisee shall be imprisoned and fined, because he held with force, *Cro. 162. b. & 164. b. Dal.* 217.

"The disseisee entreth quietly upon the disseisor, and so abide together divers daies, and then the disseisee putteth out
"the

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“the disseisor by force, the disseisor shall
“not be restored, *Dal. 217. Cro. 163. a.b.*

“Wife, children, and servants do preserve a
“possession, but cattel on the ground do not,
“*Dal. ibid. Cro. 164. b.*

“Two are in possession by several titles
“in one house, the law judgeth him in pos-
“session who hath the best right to the pos-
“session: As *A.* enters wrongfully upon *B.*
“and both do continue in the house; after-
“wards *B.* puts out *A.* with force; *A.* shall
“not be restored, for *A.* never gained posses-
“sion by his entry, *Dal. 217. Cro. 163. b.*

“Two are joynt-tenants or tenants in com-
“mon, whereof one forcibly putteth the other
“out of possession: *Quare* what a Justice
“of Peace may doe therein, for that his entry
“and possession is lawful, *Dal. 217. Pax re-
“gis 39.*

Restitution of stoln goods.

He that hath goods stoln, if the felon be
thereof indicted and arraigned, and found guilty
thereof, or otherwise attainted by reason of
evidence given by the party robbed, or the
owner of the goods, or other by their procure-
ment, then the goods shall be restored though
they never made fresh suit, *Dal. 306. Cro. 191. a.
Lam. 586.*

And the Justices have power to award writs
of restitution, 21 H.8. c. 11. *Lam. 586. Cro.
191. a. Br. Restitution 22, Dal. 306.*

Executors shall have restitution after at-
tainer

Restitution of stoln goods. 261

under or conviction upon evidence by their means given, *Dal. 306.*

Three are robbed, restitution shall be onely to such for whose goods the felon was indicted, *Dal. 306. Cro. 191. a.*

A felon stealeth from several men, is attainted onely at the suit of one; the King shall have the goods of those at whose suit he was not attainted, *Dal. 306.*

There be divers theeves, and onely one principal is attainted, the robbed shall have restitution, *Dal. 307.*

If the felon sold the stoln goods in market overt, or in a fair, no restitution, except he that bought them were privy to the felony, *ibid. Cro. 191. a.*

No restitution of stoln goods, if he know not the felon, *Dal. 307.*

No restitution if the felon leaveth the goods and escapeth, and the Lord of the Manour seileth them, *Dal. 307.*

If the felon had not the goods in his possession when he fled, but left them elsewhere, they are not waived, but the owner may take them wheresoever he findeth them, *Co. 5. 109. Dal. 307.*

"A man had his horse stoln, and so he published it, but knew not who stole it, so that he could not indict him, &c. It seemeth that he shall not have his horse again, for it was his folly to publish that it was stoln, for he might have demanded it as lost. And when he knew who took his horse, he might afterwards indict him, *Cro. 191. b.*

Return.

Recognizance taken by the Just. of Peace *ex officio*, ought to be returned at the next Qu. Sessions, *Lam. 109. Dal. 173. Cro. 139. a. Supplicavit* is to be returned into the Court whence it came, *Lam. 107. Dal. 177.*

Return of a Recognizance upon a *Supplicavit*, is not of necessity till *Certiorari*, *Lam. 109.*

Return of Jurors, *vide Jurors.*

Vide Recognizance, & Release, & Certificate.

Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawful act, and do accordingly execute or attempt the same, *Lam. 176. Cro. 61. a. nu. 2. Dal. 221.*

“ Three or more enter into land with force,
“ &c. where their entry is lawful, it is a riot,
“ *Dal. 226. Cro. 64. a. nu. 49.*

What Assemblies shall not be said a Riot.

1. Sheriff or Bailiff levy people to serve the Kings Writs, *Lam. 178. Dal. 223.*

2. Constable gathereth assistance of men with weapons to part an affray, *Lam. 178.*

3. A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to marker, *Lam. 179. Dal. 224. Cro. 64. a. nu. 42.*

4. Many

4. Many assemble together, and they know not to what end, *Lam.179. Cro. 61.b. nu. 7. Dal.222.*

5. Many assemble at a Church-ale, or at a Christmas dinner, and they suddenly fall out and fight, *Lam.179. Dalt. maketh quare 223.*

6. A number of women and children under the age of discretion flock together for their own cause, unless moved by a man of discretion to do some unlawful act, *Lamb. 180. Dal.226.*

7. To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers, *Lam.178.* yet if he use threatning words, as to say he will have it in spight of the other, or though he die for it, his doing may then become a riot, *Dal.225. Lam. ibid.*

8. To meet to drink at an ale-house, to play at foot-ball, bucklers, bear or bull-baiting, dancing, bowls, cards or dice, or such like disports, *Dal.223. Lam.178. Cro.61.b. nu.7.*

9. To use harness on Midsummer-day at night in London, or on May-day in the countrey, *Lamb. 178. Cro.64. a. nu.43. Dal. 223.*

The master intending a riot, taketh with him his ordinary servants, who know not his intent, it is no riot in the servants, *Lam.179. Cro.61.b.62.a. nu.13. Dal.222.*

A Jury falleth out and fighteth, it is no riot, *Dal.222. Lam.180.*

If any assemble for any disports, as afore-said,

said, with intent to break the peace, and make an affray, or do other outrage, it seemeth to be a riot in so many as come with such intent, *Dal. 223.*

Quare if falling out suddenly at such a meeting, and then falling to take parts, be a riot, *Dal. 223, 224.* But if by agreement they meet again and fight, it is a riot, *ibid. Vide Dal. 224. Cro. 61. b. nu. 12.*

It can be no riot, except there be an intent precedent to do some unlawful act with force, *Dal. 222. Cro. 62. a. nu. 13.*

Yet if a man go to Sessions or market with his servants in harness, though there be no intent to commit a riot, yet the manner maketh a riot, *Cro. 61. a. Vide 2 E. 3. cap. 3. Dal. 225.*

What one Just. of Peace is to do in case of Riots.

He may prevent a riot before it be done, or stay it in the doing, and in the doing may take and imprison the rioters, and bind them to their good behaviour, *Dalt. 109. Lam. 181.*

A riot being done, Justices of peace can neither record the riot, nor make enquiry, nor assess the fine, nor award process, nor meddle with it, but only as a trespass against the peace, or upon the stat. of Northampton of forcible entry, *Dal. 110. Lamb. 181.*

Justices of Peace sitting in a judicial place, and seeing a riot, may command them to be arrested, and record it, and is
con-

concludeth the offenders, *Dal.* 110. *Cro.* 65. nu. 54. *Lam.* 385.

But a Justice of Peace in another place seeing a riot, and recording it, the parties may traverse it, *ibid.* *Cro.* 65. a. nu. 53. *Lam.* 386.

Every Justice of Peace being of and in the county, having notice of any riot, ought to have a care to execute the statute 13 H. 4. c. 7. viz. that the rioters be arrested, &c. and removed, otherwise the next Justices forfeit an hundred pound a piece, and every other Justice in whom there shall be default, fineable in the Star-Chamber, *Dal.* 110. *Cro.* 124. a. nu. 22.

One Justice of Peace may arrest rioters, enforce them to find sureties for the peace or good behaviour, or in default commit them to prison, *Dal.* 112. *Cro.* 157. b. *Lamb.* 181.

A Justice of Peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come, or else arrest them if they offer to break the peace, *Dal.* 110. *Lam.* 181. *Br. Peace* 7.

If the Just. of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to find sureties for the peace, and his command by word is sufficient, *Dal.* 110. *Cro.* 64. a. nu. 45. *C.* 148. b.

One Justice of Peace may cause all statutes for suppressing of riots to be put in execution, *Dal.* 111.

If the riot be notorious, it is not safe to
N stay

stay complaint or information, *Dal.* 111.

*What two Justices of Peace may
do in a Riot.*

They ought to send for the Sheriff or Under-sheriff, if none of them come, *Dal.* 112. *Lam.* 327.

If one or two next Justices do come, and not the Sheriff or Under-sheriff, such as come shall be excused of their fine of 100 pound, *Dal.* 111. *Lam.* 327. *Cro.* 63. b. nu. 35.

If one Justice of Peace in the county shall execute the statute of 13 H.4. c.7. it shall excuse the next Justices, *Dal.* 112. *Lam.* 326, 327.

Two Justices of Peace present without the Sheriff, are fineable if they do not all which by the statute of 13 H.4. c.7. ought to be done, *Dal.* 112. *Lam.* 327.

“ If two Justices of Peace (without the
“ Sheriff or Under-sheriff) see persons com-
“ mitting a Riot, they may cause them to be
“ arrested, and record it, *Lam.* 319. *Quare.*

*The particulars which the two
next Justices of Peace with the
Sheriff or Under-sheriff must do
upon the statute of 13 H.4. c.7.
Dal.* 113.

1. They must go to the place where the riot is, *Dal.* 113.

2. They shall take the power of the county
(*viz.*)

(viz.) all above 15 years of age, under the degree of Barons, upon pain of imprisonment, fine and ranfome, *Dal.* 114. *Cro.* 157. b. *Lam.* 314, 315.

It is not good to raise the power of the county without certain information and knowledge, yet they may doe it upon information, (though it be false,) and be excused, or without information, if when they come they finde one, *Dal.* 114. *Lamb.* 315, 316. *Cro.* 64. b. *nu.* 49.

3. They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons, *Dal.* 114. *Lamb.* 316, 317.

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth, *Dal.* 115.

Such as they meet coming from the place riotously arraied, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them, *Dal.* 114. *Lam.* 316. *Cro.* 63. a. *nu.* 32.

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that process may come from thence, *Dal.* 115. *Lam.* 318.

The Justices may grant a warrant for such as they saw escaping, to be bound to the good behaviour, *Dal.* 115. *Cro.* 196. a. *nu.* 27.

And so they may doe upon information,

but it is best to doe it upon enquiry, and so to fine them, *Dal.* 115.

In execution of the said arrest of rioters, the Justices may justifie the beating, wounding, or killing of any the rioters which resist or will not yeeld, *Dal.* 115. *Lam.* 316. *Cro.* 62. b. nu. 20. & 158. b.

4. After arrest the Justices, Sheriff or Under-sheriff shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formal and certain, as time, place, number, weapons, manner, &c. *Dal.* 119. *Cro.* 63. a. nu. 31. *Lam.* 316, 317.

The form of the record, vide Dal. 401. *La.* 220.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders, *Dal.* 115. *Lam.* 318.

If the rioters make a riot upon the Justices, they may record it also, *Dal.* 115.

Justices record a riot, and upon examination it appears no riot, or saw it not, or there was no riot, yet the parties are concluded; *Dal.* 116. *Cro.* 63. a. nu. 33, 65. a. nu. 56, 130. *Lam.* 317.

5. The Justices are presently to commit rioters to the gaol, and the power of the county ought to be aiding to the Sheriff or Under-sheriff, *Dal.* 116, 117.

None may commit the rioters but the Justices who had the view, *Dal.* 116.

If the Justices and Sheriff or Under-sheriff commit to prison the offenders, and do not record the riot, every one of them loseth

loſeth 100 pound, or do record the riot, and do not commit the offenders, *Dal.* 117. *Cro.* 61.b. *nu.* 10.

6. The ſaid Juſtices and none other ſhall aſſeſs the fine upon the offenders, which by the ſtatute of 1 H. 5. c. 8. ought to be of good value, that thereout the charges of the Juſtices and other officers may be born, yet muſt it be reaſonable and juſt, *Dal.* 116. *Lam.* 317. *Cro.* 161.a. *nu.* 45.

The fines muſt be impoſed upon every offender ſeverally, *Dal.* 117. *Colib.* 11. 43, 44.

The fine muſt be eſtreated into the Exchequer, *Dal.* 117. and then to deliver the offender as it ſeemeth, *ibid.*

The Juſtices, as it ſeemeth, may out of the fines pay the charges of the ſaid Juſtices, and of the Jury who made the enquiry, for their diet, and the Sheriffs fees; and the Juſtices Clark who maketh up the record, may have his fees out of that money, or rather may take of every offender 12 pence when they pay their fines, *Dal.* 119.

Or the Juſtices may record the riot, commit the offender, and after certifie the record to the Aſſizes, Sessions, or Kings Bench, *Dal.* 117.

The record may be delivered at the Sessions to the Clark of the Peace, together with the reſidue of the money remaining of the fine, *Dal.* 119.

Where Juſtices of P. are remiſs in puniſhing the rioters, the Lords in the Star-chamber may and do often aſſeſs greater fines for the ſame riot, *Dal.* 120. *Cro.* 63.a. *nu.* 30.

7. If the riot was not committed in the presence of the Justices, or the rioters gone before their coming, two Justices at least within one moneth next after must enquire thereof by a Jury returned by the Sheriff, and record, the riot being found, which is to remain with one of the said Justices, *Dal. 117. Lam. 321.*

The form of such enquiry, vide Dal. 403. Lam. 329.

Enquiry shall not be unless the rioters be gone, *Dal. 117.*

It is not necessary that one of the Justices of Peace be of the Quorum, *Dal. 118. Cro. 62. b. nu. 25.*

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100 pound: yet if the Jury be charged within the moneth, and have day after to give up the verdict, the statute is not broken, *Dal. 118. Lam. 322.*

At the enquiry the Sheriff or Under-sheriff must be present, but then as Ministers onely, *Dal. 118. Lam. 321.*

The Justices assemble to enquire within the moneth, the parties agree, and the Justices dismiss thereupon the Jury, the Justices shall be fined, though none will sollicite the Inquest, or give evidence to the Jury; for the Justices ought to proceed *ex officio*, seeing some of the Jury may have knowledge of the riot, and they ought to make proclamation if any will give evidence, *Dal. 118. Lam. 322.*

If at the parties request the Justices dismiss
the

the Jury without enquiry, they are fineable in the Star-Chamber to the King, *Dal.* 118. *P.R.*

29.

The Justices may bind to the good behaviour the parties complaining of the riot, who caused them to meet, and will not prosecute for the King, but have agreed it, *Dalton* 118.

Though the Justices go not to see the riot, yet they may enquire within a month after, *Lamb.* 321.

8. After enquiry had and the riot found, the Justices have power to hear and determine the same, (*viz.*) First to make out process against the offenders under their own test. Secondly, to assess the fine. Thirdly, to commit till they have paid the fine. Fourthly, to deliver them after payment of their fine, or sureties taken by recognizance, or otherwise they may receive their traverse, if the matter will serve, and dismiss them, *Dal.* 119. *Lam.* 323. *Br. Imprif.* 100.

But the Justices should send such Indictment or inquisition to the next Quarter Sessions, or into the Kings Bench together, with the said traverse, there to be tried, *P.R.* 30. *Dal.* 119.

9. If the riot upon enquiry cannot be found, the Justices and Sheriff must certify into the Star-Chamber, or Council-Board, or Kings Bench, the whole fact and circumstance, with the names of the offenders *sub poena*, *Dal.* 120. *Lam.* 323, 324. *Præmunire* *Br.* 1.

The certificate must be made within a
N 4 month.

month after the enquiry, or else it is of no force, *Dal.* 121. *Lam.* 324.

Though two Justices with the Sheriff see the riot, yet two other Justices may make the enquiry, and they all together, or the first two, or last two, with the Sheriff or Under-sheriff, may make the certificate, *Dal.* 121. *Lam.* 325.

Where the several certificates be made, or certificate and enquiry do disagree, the best for the King shall be preferred, *Dal.* 121. *Lam.* 325.

If the Jury find but some guilty, the Justices may certify the rest, *Dal.* 121. *Lam.* 325.

Any material thing left out in the inquiry, may be supplied in the certificate, *Dal.* 121.

Quære if after enquiry and before certificate the Sheriff die, or one of the Justices be put out of Commission, whether a certificate can be made, *Dal.* 121. *Vide Lam.* 326.

Upon the certificate of two Justices and the Sheriff, the Lord Chancellour may grant a *Capias* to attach the offenders, *Dal.* 121. *Lam.* 313.

Upon default of the Justices and Sheriff in not executing the statute 13 H.4. c. 7. the party grieved may have a Commission out of the Chancery, to enquire of the riot, as also of the Justices and Sheriffs default, *Dalton* 121.

“ Also the Lord Chancellour may send his
“ writ to the Justices and Sheriff to execute the
“ statute of 13 H.4. c. 7. *Dal.* 121.

“ The Justices and other officers shall do
“ their

“their offices at the Kings charge in going,
 “carrying and returning, in the doing of their
 “said offices, by payment thereof to be made
 “by the Sheriff for the time being, by Inden-
 “ture betwixt him and the said Justices and
 “other officers aforesaid to be made of the
 “payment thereof, whereof the Sheriff upon
 “his account in the Exchequer shall be allow-
 “ed, 2 H. 5. c. 8.

“The Sheriff is to return 24, whereof eve-
 “ry one hath lands and tenements within the
 “same Shire of 20 s. *per ann.* of charter lands,
 “or 26 s. 8 d. of copyhold, or of both *ultra*
 “*reprisas*; and must return for issues upon
 “every one at the first day 20 s. at the second
 “40 s. if they do not appear and be sworn
 “the first day. And the Sheriff or Under-she-
 “riff not returning persons sufficient, loseth
 “for every one 20 l. to the King, 19 H. 7.
 “*cap.* 13.

“If the riot, rout, or unlawful assembly
 “be not found by the Jury by reason of any
 “maintenance or embracery of the Juries,
 “the Just. Sheriff, or Under-sheriff, (besides
 “such certificate to be made by 13 H. 4.)
 “shall, in the same certificate, certifie the
 “names of the maintainers or embracers,
 “upon pain of every Justice, Sheriff, or
 “Under-sheriff 20 l. (if they have not rea-
 “sonable excuse) which certificate shall be
 “of force, as if the matter therein found
 “were found by the verdict of twelve men.
 “And every maintainer and embracer
 “forseith twenty pound, and to be com-
 “mitted to ward, to remain during the

“ discretion of the Justices, 19 H.7. cap.13.

“ Indictment of a riot is not good unless it

“ say *contra formam statuti inde editi & pro-*

“ *visi*, Cro.102.4. nu.19.

Rivers.

Every Justice of Peace is a conservatour of rivers within his county, and may survey the wears in rivers that they be of reasonable wideness, *Lam.189.*

Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steal them, and putting him in fear thereby, though the thing taken be but to the value of an half-peny, *Cro.33. b. nu.1. Lam.267. Dal. 260.*

But if a felon take money from me in the high-way, and shall not put me in fear, it is not robbery, *Dal. 260. Cro.34.b. nu.12. Lam. 266.*

If a thief take nothing from my person, but assaulterh me, whereby he getteth any thing from me, it is robbery, *Dal.260. As,*

1. I cast my purse on the ground, and he taketh it away, *Lam.268. Dal.261.*

2. After assault he prayeth me to give him a peny, and I do so, *Dal.261.*

3. If upon assault I deliver my purse, *Dal. 261. Cro.34.b. nu.10. Lam.267,268.*

4. If flying from a thief, I cast my purse into a bush, and he doth afterwards take it away,

away, *Dal.* 261. *Cro.* 35. a. nu. 10. *Lam.* 268.

5. If upon assault I flie away, and my hat fall, and the thief carry it away, *Cro.* 35. a. nu. 18. *Dal.* 261.

6. If a thief bid me deliver my purse, (without any force used) and I deliver it, and he finding but two shillings in it, delivers it again, *Cro.* 34. b. nu. 10. *Dal.* 261.

7. If by threats he compel me to swear to bring him mony, and afterward I bring him the mony accordingly, *Dal.* *ibid.* *Lamb.* 268.

In some cases it is robbery, though the thief neither take it from my person, nor assault me.

As, 1. A thief taketh my goods openly in my presence against my will, the fear is the like as if it had been from my person, *Cro.* 34. a. nu. 5. *Lam.* 269. *Dal.* 261.

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in fear, *Dal.* *ibid.* *Cro.* 34. b. nu. 5.

3. To make it robbery, the person must be put in fear, *Cro.* 34. b. nu. 12. *Dal.* 261.

4. Two come to rob me, and one asteth it, being out of the sight of the other, who after returneth to him; it is robbery in both, *Cro.* 34. a. nu. 10. *Lamb.* 270. 28 *El. Pudseys case,* *Dal.* 262.

To assault one to rob him without taking any thing, is not robbery, *Cro.* 34. a. nu. 9. *Dal.* 261.

After a robbery committed, the Hundred must answer the loss, if the robbers be not taken within 40 daies: if it be done in the division of two Hundreds, both Hundreds and the

the franchises within them must be answerable, and the hundred wherein defect of fresh suit is, the one moiety, *Dal.* 131. 27 *El. c.* 13.

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20 daies next before the action brought, upon his corporal oath before some one J. of Peace of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if he confess he knoweth any of them, then shall he before such action brought, enter into recognizance before the said Justice, effectually to prosecute such persons by Indictment or otherwise according to the due course of the laws of this Realm, 27 *El. c.* 13. *Lam.* 202. *Dal. ibid.*

After robbery committed, the robbed shall not recover against the Hundred, except 1. with all convenient speed he give notice of the robbery to some inhabitant near to the place where the robbery was committed.

2. He commence his action within a year and a day next after such robbery committed.

3. He be examined *ut supra*, before a Just. of Peace, *Dal.* 131.

Any two Justices of Peace in the Hundred, one being of the *Quorum*, may assess all towns and parishes in the said Hundred & Liberties therein, upon recovery and execution had against any of the Hundred, towards an equal contribution; which money the Constable must deliver to the same Justices within

within ten daies after collection, and they upon request, to those to whose use it was collected, *Dal. 132. Cro. 197.2.*

And the Hundred shall be assessed in like sort in default of pursuit of fresh Hue and Cry, *Dal. ibid.*

Robbery in a house doth not charge the hundred, whether it be done in the day or in the night, *ibid.*

The Hundred is discharged upon taking of any of the offenders by pursuit, *Dal. 133.* 10 if the party robbed take any of the offenders after Hue and Cry made, *Dal. ibid.*

Robbing of an house.

1. Robbing a house or any out-house, as a barn or stable in the day, to the value of 5 shill.

2. Robbing a house by day or by night, any person being therein, and thereby put in fear.

3. Robbing any person in any part of his dwelling-house, the owner or dweller, wife, children, or servants being in any place within the precinct of the same, sleeping or waking.

4. Robbing any Booth or tent in fair or market, the owner, his wife, children or servants being in the same, sleeping or waking. *All these are as penal as Burglary, Dal. 287. Lam. 265. 39 El. c. 15. 21 H. 8. c. 1. 5 E. 6. c. 9.*

Rogues.

All persons hereunder mentioned, being above the age of 7 years, may be punished as Rogues, *Dal. 123. 39 El. c. 4.*

1. All

1. All going about begging upon any pretence or colour, though licensed by any subject, except in some particular cases after mentioned, *Dal. ibid. Lam. 442.*

2. All going about the country using any subtille craft or unlawful games, as fortune-tellers, juglers, *Dal. ibid.*

3. All proctours, patent-gatherers, or collectors for prisons and hospitals, *L. 7. 442. Dal. ib.*

4. All fencers, bear-wards, common-players of interludes, and minstrels wandring abroad, *Dal. ibid. Lam. 443. 1 Fac. c. 7.*

5. All pedlers, pety-chapmen, tinkers, and glass-men wandring abroad, *1 Fac. c. 7. Dal. ibid. Lamb. 443. 21 Fac. c. 28.*

6. All wandring labourers able in body, refusing to work for reasonable wages, having nothing but labour to maintain themselves, *Dal. 124. Lam. 443.*

But such as are of any parish, able to work, and do not wander, but refuse to work for the usual wages taxed in those parts, are to be sent to the house of correction, *Dal. ibid.*

7. Poor of the parish begging otherwise then is appointed them, or begging by high-waies, *ibid.* are to be sent to the house of correction.

8. All pretending to be Ægyptians, not being felons, *Dal. ibid. Lam. 443.*

9. Soldiers or mariners that beg, except soldiers or mariners having a testimonial from a Justice of Peace near the place of their landing, with the place of their dwelling or birth to which they are to pass, and a convenient time limited for their travel and pursuing the
ibid.

said licence 39 *Elix. c.4.* or do counterfeit any certificate from their General, Governour, Captain, Lieutenant, Marshal, Deputy or Admiral, *Dal. 124.*

10. Diseased persons travelling to the Baths and licensed, if they beg, or not licensed by two Justices, or not returning as they are limited, *Dal. 124. Lam. 443.*

11. A rogue once whipped, not performing the order appointed by his testimonial, *Dal. 124.*

12. A rogue going with a general passport, not directed from parish to parish, *Dal. ibid.*

So a rogue carrying his own passport without a guide, *Dal. 124.*

13. Servant departing out of service without testimonial, 5 *El. c.4.* or taken with counterfeited testimonial, *Dal. 124.*

14. Persons infected with the plague, or dwelling in infected houses, going abroad contrary to order, 1 *Fac. c.31. Dal. ibid.*

15. Persons able to labour and relieve themselves and families, that run away, or threaten to run away and leave their charge to the parish, 7 *Fac. c.4. Dal. 125. 21 Fac. c.28.*

16. Any calling himself a scholar, that hath gone about begging, *Lam. 443.*

17. Any pretending loss by fire or otherwise, that wandring beggeth, *Lam. 443.*

18. Any delivered out of gaol, that hath begged for fees, *Lam. 443.*

Any Justice of Peace may appoint any person to be openly whipped naked, even unto bleeding, that shall be taken begging, wandring, or misordering himself, and is declared

red by the statute 39 *El.* 4. to be a rogue, vagabond, or sturdy begger, and shall cause him to be whipped to be sent from parish to parish by the officers of the same, the next way to the parish where such person was born, if it can be known; if not, to the parish where such rogue last dwelt before the punishment by the space of a year, there to labour; or not being known where he was born or dwelt, then to the parish through which he last passed without such punishment, to whom the Justice shall under his hand and seal make a testimonial witnessing his punishment, day and place thereof, and whither he is limited to travel, and by what time. And in case such place of birth and last dwelling be not found nor known, then such person shall, by the officer of such village through which he last passed without punishment, be conveyed to the house of correction of the limit, or to the common gaol, 39 *Eli.* c. 4. there to remain in work until such person be placed in service for one years continuance, or not being able of body, till such person be placed in some alms-house of that place or county, *1 am.* 204, 205.

“ The like may be done by Constable assisted with the advice of the Minister, and one other of the Parish, 39 *Eli.* c. 4.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the county to which he is sent; and if there be none there, then to the gaol until the next Sessions: so if he misreport the place of his last dwelling by the space of a year, if it appear not where he was born,

born, *Lam.* 207. *Ref.* 1, 2. *Dal.* 128.

Husband and wife having an house, rogue about, they must be sent to the town where that house is ; and so of an inmate, *Lam.* 207. *Ref.* 3. *Dal.* 125.

Wife, and children under 7 years being vagrant, are to be placed with the husband ; if the husband be dead, then where they were born or dwelt last, *Lam.* *ibid.* *Ref.* 4, 9, 10. *Dal.* 125.

Children vagrant above 7 years old must be sent to the place of their birth, *Dal.* 125. *Lam.* 207. *Ref.* 4.

Vagrant parents, with their children under 7 years of age, being once placed at the place of birth of their parents or last dwelling, the parents dying after, or running away, the children once settled must still remain there, *Dal.* 125. *Ref.* 4. *Lam.* 207.

Wife vagrant is to be sent to her husband though he be but a servant, *Lam.* 208. *Ref.* 5. *Dal.* 125.

Rogue, whose place of birth or dwelling cannot be known, hath wife, and children under 7 years of age, they must be sent with the husband to the place where they were last suffered to pass unpunished, and the children must be relieved by the work of the parents, though the parents be sent to the house of correction, *Lam.* 208. *Ref.* 6.

Rogue sent to a town, and refused by the Church-wardens and Overseers to whom he is to be offered, is a forfeiture of 5 pound in the refuser, *Lam.* 210. *Resol.* 12, 14. *Dalt.* 128.

Any

“ Any hindering the execution of the law of
 “ 39 *Eliz.* or any part thereof for the convey-
 “ ing of Rogues, forfeiteth five pounds. And
 “ any two Justices may bind such offender to
 “ the good behaviour, and upon confession of
 “ the offender or oath of two may by warrant
 “ under their hands and seals cause the said sum
 “ of five pound to be levied by distress and
 “ sale of the offenders goods, *Dal.* 128. 39 *El.*
 “ *cap.* 4.

Rogue sent from the place where he is taken, by a general passport, without conveying him from parish to parish, is a let in the conveying of rogues, and a forfeiture of 5 pound, *Lam.* 210. *Ref.* 13. *Dal.* 128.

Rogue going with such a passport, continuing a rogue, is to be punished by whipping, *ib.*

By parents is to be understood father or grand-father, mother or grand-mother, being able persons, *Lam.* 210. *Ref.* 16.

By children, any child or grand-child, being unable, *Lam.* 210. *Ref.* 15.

Diseased persons living of alms, and travellers to Bath or Buxton for remedy, are to be licensed thereto by two Just. of Peace, 39 *Eliz.* *cap.* 4. *Lam.* 332. yet may not beg, but must be provided of maintenance for their travel, *Dal.* 124.

Forfeiture of offences against the statute 39 *El.* c. 4. upon conviction by confession or by two witnesses before two Justices of Peace, they may cause the same to be levied by warrant under their hands and seals, by distress and sale of the offenders goods, 39 *El.* c. 4. *L.*

331. See 1 *Fac. cap. 7. Dal. 129.*

All questions growing upon the statute of rogues, may be heard and determined by two Justices of Peace, whereof one of the Quorum, *Dal. 129. 39 Eliz. cap. 4.*

Constable or Tithing-man not doing his endeavour to apprehend rogues within their limits, or wilfully suffering them to escape unpunished, forfeiteth 20 shill. for every offence, *Dal. 128.* and 5 pound if they do not convey them away towards their dwelling or place of birth, *39 Eliz. cap. 4. Lam. 444. 1 Fac. cap. 7. Dal. 129.*

Minister of the parish not keeping a register of the testimonial of rogues punished in his parish, and conveyed thence, loseth for every default 5 shill. *39 El. c. 4. Dal. 129.*

Every one is to carry to the Constable such beggars as they shall know to come to their doors for alms, or lose 10 shillings, *1 Fac. c. 7. Dal. 129.*

Justices of Peace are to meet twice a year at the least, and oftner if occasion be, in their severall divisions, for the executing of the statute against vagabonds, and four or five daies before by warrant to command the Constables of hundreds or towns, by assistance of some of every town, to make a general privy search by night for finding and apprehending rogues to be brought before the Justices at their meeting by them, and punished, or sent to the house of correction, *7 Fac. c. 4. Dal. 130. 21 Fac. c. 28.*

Constables at every meeting of the Justices of Peace for the execution of the statute of rogues,

rogues, are to give an account upon oath in writing, and under the hand of the Minister of the parish, what rogues, &c. they have apprehended both in the same search, and also between every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, be fined under 40 shill. as by the most of the Just. shall be assessed, 7 *Fac.c.4. Dal. 130.*

No man is to be put out of the town where he dwels, or sent to his place of birth or last habitation, but onely a vagrant rogue, *Dal. 126. Ref. 9. Lam. 209.*

So of them whose terms of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent, *Dal. 126.*

Dangerous rogues are to be banished, or condemned to the gallies by the Justices at their Quarter-Sessions, 39 *El.c.4. Lam. 427. Dal. 287.*

Rogues by judgement of most of the Justices of Peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R. and then to be sent to their dwelling; if they have none, then to their last dwelling-place where they dwelt for a year; or if that cannot be known, to their places of birth, 1 *Fac. cap. 7.* If he offend again in begging or wandring, it is felony without clergy, 1 *Fac. c. 7. Lam. 428. Dal. 287.*

“Souldiers and mariners having a testimonial under the hand of the Justice next to his
“landing-place, of the time and place of his
“landing, limiting the place to which he is

Rogues.

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"to pass, and the time; if he pursue the said
"license, he may ask and take such necessary
"relief as any will give him, 39 *El.c.17. Lam.*
"303. *Dal.126.*

"Two Justices of Peace may send to the
"house of correction, as a sturdy rogue, a per-
"son able to work, threatening to run away and
"leave his family upon the parish, being prod-
"ved by the oath of two before the said Justi-
"ces, unless he can put in sufficient bond for
"discharge of the parish, 7 *Jac.c.4. Lam.331.*

"He which runneth away and leaveth his
"charge to the parish, is an incorrigible rogue,
"7 *Jac.c.4.*

Rome, *vide* Pope, Co.11.36.

Rout.

"Rout is where three or more persons be disor-
"derly assembled to commit any act with force,
"whether they put in execution their purpose or
"no, if they so do go, ride, or move forward af-
"ter their first meeting, *Lam.176. Dal.221.*

"A rout is onely by some opinions, where
"three or more do assemble for their own com-
"mon quarrel: As, the inhabitants of a town
"assemble to pull down a house, wall, pale,
"ditch, or other inclosure, pretending to have
"title of common, or a way there, or to beat a
"man that hath done some publick offence,
" *Dal.221,222.*

Sacriledge.

Sacriledge is the felonious taking of goods out of any Church or Chappel, *Lam. 420.*

Sacraments.

Three Justices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and bind them all to give evidence at the day of trial; and they being found guilty shall be imprisoned and fined, *1 Ed. 6. c. 1. Dal. 134. Quære Lam. 416, 366.*

Three Justices of Peace, one being of the Quorum, may award against one indicted upon the statute of *1 E. 6. c. 1.* for depraving the Sacrament, a *Capias*, *Exigent*; and *Capias ut legat.* into any shire, *1 Ed. 6. c. 1.*

“Justices of Peace in their Q. Sessions may
“enquire, hear and determine of all recusants
“and offences, as well for not receiving the Sa-
“crament according to *3 Fac. c. 4.* as not repair-
“ing to Church. And in their Sessions
“(wherein there shall be indictment taken for
“not repairing to Church, or not receiving
“the Sacrament) to make Proclamation to ren-
“der their bodies to the Sheriff before the next
“Sessions, and in default, a conviction, *3 Fac. c. 4. Lam. 616.*

Salmons, *vide* Fish.

Salt-peter-men.

Salt-peter-men cannot digge in the mansion-
house

Salt-peter-men. 287

house of any subject without his assent, in regard of the danger that may happen thereby in the night-time to the owner, his family and goods, by thieves and other malefactors, *Co. 11, 82. Dal. 209. Vide House.*

School-master.

To keep or maintain a School-master which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocess, the maintainer forfeits ten pounds for each month, and the School-master to be imprisoned for a year without bail, and disabled; *23 El. cap. 1. Lam. 419.*

Any keeping a School, or being a School-master out of the University, except in publick Grammar-school, and except in such Noblemen and Gentlemens houses as are not Recusants, and licensed by the Arch-bishop or Guardian of the Diocess, both keeper and School-master forfeits 40 shill. a day, *1 Jac. c. 4.*

Seditious Sectaries.

One Justice of Peace may within three months after the conviction of any seditious Sectary or Popish Recusant described in the statute of *35 El. cap. 1.* require the submission of him to conformity, and in default of such submission, may require him to abjure the Realm; and if he refuse, or after return without licence, it is felony, *35 El. c. 1, & 2. Lam. 204.*

Sermon,

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Serving-men, *vide* Testimonial.

Sessions of the Peace.

The Sessions of the peace is an assembly of any two or more Justices of Peace, one being of the *Quorum*, at a certain day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to hear and determine according to their power of causes within the Commission and statute referred to their charge, *Lam.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing, *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriff, and by him to be returned at the Sessions, *Lam.* 381.

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the *Quorum*, but not the *Custos Rotulorum* alone; and summons cannot be discharged by *Supersedeas* of all the other Justices, but by *Supersedeas* out of the Chancery, *Lam.* 382, 383.

Sessions held by one Just. of P. is not good, although it were summoned by two, and styled by their names; but by two sufficient Justices it is good, though it be styled by the name of three, *Lam.* 383.

Sessions of the Peace. 289

Quarter Sessions are to be held four times in the year, (*viz.*) the first week after S. Michael, the Epiphany, the clause of Easter, after the translation of S. Thomas the Martyr, which is 7 July, 2 H. 5. c. 4. Lam. 597.

"The Easter Sess. by 33 H. 8. c. 10. are to be holden the Tuesday next after Low-Sunday, Lam. 605.

"Justices of Peace shall hold their Sessions four times in the year, *viz.* Once within the Octaves of the Epiphany: the second, in the second week of Lent: the third, between the Feasts of Pentecost and S. John Baptist: the fourth, within the Octaves of S. Michael, 36 Ed. 3. c. 12. Cro. 123. b. nu. 16.

"Where Crompton noteth, that by 12 R. 2. c. 10. it is ordained that the Qu. Sessions should be held every quarter of a year at the least, and three daies if need be; by which it appeareth that the usual day is not of necessity, so it be kept within a quarter of a year, Cro. *ibid.*

"By the stat. 2 H. 5. c. 4. Justices of Peace shall keep their Sessions four times in the year, *viz.* in the first week after S. Michael, in the first week after the Epiphany, in the first week *post claus. Paschæ*, and in the first week after the Translation of S. Thomas the Martyr, which is the 7 of July, and oftner if need be, Cro. 123. b. nu. 17.

"Cro. 123. b. nu. 18. saith, that upon the stat. of 17 R. 2. c. 9. (which permitteth to keep Sess. so oft as is expedient) in Kent they keep their Sess. at other times then the times

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"appointed by 2 H.5. c.4. and that it is good.

The place where Sessions are to be holden is arbitrable, and therefore though by summons they be to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance, *Lam.* 383, 384.

Two Sessions at one time for one County lawfully summoned at two places, both are good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good, *Lam.* 384.

At a general Sessions all matters enquirable by Justices of Peace, either by their Commission or by statute, ought to be given in charge, otherwise at a special Sessions, *Lam.* 623. and may be held three daies, 606. 12 R. 2. c.10.

Two sorts of men owe their ordinary attendance at the Qu. Sessions, (*viz.*) officers and ministers of the Court; and Jurors of the County, *Lam.* 386.

Officers are the *Custos Rotulorum*, where he ought to attend by himself or his deputy, *Lam.* 387.

The Clark of the Peace, *Lam.* 393.

The Sheriff, *Lam.* 395.

The Coroners, *Lam.* 394.

"Ministers, as Bailiffs of Franchises, Constables of Hundreds, the Ordinary, *Lam.* 395. Jurors for enquiry and trial, *Lam.* 396.

The Just. of P. if need require, may keep a special Sessions by virtue of their commission, or by the statute 2 H.5. c.4. *Lam.* 623.

Sum-

Sessions of the Peace. 291

Summons of a special Sessions is for the most part for some special enquiry, and not to the general service of the commission, *Lam.* 623.

All matters within the commission or statute may at a special Sessions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them, *Lam.* 623, 624.

If two Justices of the Peace, one being of the Quorum, make a precept to the Sheriff for the holding a Sessions at such a place and day, and to return a Jury before them, other Justices cannot by their *Supersedeas* to the Sheriff inhibit him, *Cro.* 122.b. but the King by his writ of *Supersedeas* may discharge it, *ibid.*

A man is bound to appear before a Justice of Peace within forty daies after, in the meantime a general Sessions is kept, he ought to appear before the Justices at the Sessions, *Cro.* 122.a. nu.8.

A Justice commands one on pain of 10 pound by his precept to appear at the next Sessions, and he doth not, no *scire facias* shall go against him more then upon a *Sub poena*, but it seemeth he may be attached upon a contempt, *Cro.* 123.a. nu.9.

"All that come to the Sessions for publick service, or upon compulsion, upon complaint and examination of the matter upon oath shall be freed from any arrest upon an Original process, *Lam.* 402. *Cro.* 190.b.

"Justice of Peace may record a force, if he be disturbed in coming to the Sessions,

“ so that he dare not go to the Sessions, and
 “ they shall be convicted by that record, Cro.
 “ 190. b.

Sewers.

Commission of Sewers being expired, six
 Justices of Peace, two being of the Quorum,
 may for one year after execute the laws of
 Commissioners of Sewers, unless a new be
 published, 13 *El.* c.9.

Sheep.

To transport sheep beyond the seas without
 licence, or to procure the same, is felony for
 the second offence, 23 *H.8.* c.16. 8 *Eliq.* c.3.
Lam. 227, 425.

Any bringing, sending, or receiving into
 any bottome any sheep alive out of the Kings
 dominions, or procuring the same, loseth his
 goods, is to be imprisoned for a year, and then
 in open market to lose his left hand, 8 *Eliq.*
 c.3. *Lam.* 456, 457.

Any keeping at one time above 2000 sheep
 of all sorts against the purport of the statute,
 loseth 3 shill. 4 pence for every sheep above
 2000. 28 *H.8.* c.13.

Sheriff.

The *Custes Rotatorum*, or eldest of the Quo-
 rum in his absence, is to appoint at Mich-
 elmas-Sessions, two Justices of Peace,
 whereof one of the Quorum, to have the
 oyer

oversight and controlment of the Sheriff, Undersheriff, their officers and deputies, and of their books and amerciaments in their County Courts: and either of these two Justices, or one Justice of the Peace, may examine the Sheriff or Under-sheriff and plaintiff concerning the taking and entring plaints in their Courts and books against the statute, 11 H.7. c.15. *Dal.* 136. *Lam.* 201, 295, 606.

The particulars are, *Dal.* 137. *Lam.* 431.

1. If any plaints be entred in their books in any mans name, the plaintiff or sufficient Attourney not being in Court.

2. If the plaintiff finde not pledges to pursue his plaint, viz. such as are known in that County.

3. If they enter more plaints then one for one trespass or contract.

4. If they enter more plaints then the plaintiff supposeth he hath cause of action for against the defendant.

If upon examination the Justices finde any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shill. to the King and to the informer for every default, and the Justices must certify the examination to the Exchequer within a quarter of a year, on pain of 40 shill. *Dal.* 137.

The like for Bailiffs of Hundreds in not warning the defendants to appear, *Dalt.* *ibid.*

Sheriff shall make no estreats to levy their Sheriffs amerciaments until the two Justices

Justices have had a view and oversight of the books, and the said estreats shall be indented betwixt the said Justices and Sheriff, or Undersheriff, under their seals, *Dal. ibid.*

The said two Justices or one of them may examine the defaults of collectors of Sheriffs amerciaments, whose finding of default is a sufficient conviction and forfeiture of forty shillings, the examination to be certified into the Exchequer, *Dal. ibid.*

The said Justices, upon information of the party grieved, may make like process as in action of trespass against the Sheriff, &c. to appear then to answer the said information or suggestion, *Dal. 138.*

Sheriff ought to be at the Sessions to return his precept, and keep the prisoners, *Lam. 395.*

In these cases following the Sheriff, &c. doth forfeit 40 pounds, and treble damages to the party grieved, 23 Hen. 6. c. 10. Lam. 430, 431.

1. Sheriff that letteth his Bailiwicks or any of his hundreds.
2. Or returneth in any panels any Bailiffs, officers, servants, or servants servants.
3. Or refuseth to bail those that are bailable, offering sufficient surety.
4. Or taketh any obligation by colour of his office, but onely to himself, and upon the name of his office, and upon condition
onely

only to appear according to the writ or warrant.

5. Or having taken for an arrest above 20 pence.

6. Or above 4 pence for any obligation, warrant, or precept.

7. "Or he or any other minister having taken any thing for making any return or pannel.

8. Or above four pence for the copy of a pannel.

9. Bailiff for taking above four pence for making an arrest.

10. Gaoler taking above four pence of any committed to his ward upon arrest or attachment.

11. Sheriff or his ministers that shall levy any of the Kings debts, without shewing the party the estreats under the Exchequer seal, shall be fined and pay treble damages to the party, 7 H.4.c.3. 42 Ed.3. 6.9. Lamb. 432.

12. Sheriff or other his minister arresting, imprisoning, ransoming of, or levying any amerciaments by reason of any Indictments or presentments made in the Sheriffs turn, without process first obtained from the Justices of P. or that hath not brought in such indictments and presentments to the Justices of the Peace at the next Sessions, loseeth 10 pound, Lam. 431. 1 Ed.4.c.2.

Sheriff or any other who may make return of any writ, that returneth any Jurour, without true addition of the place of his abode, or within a year next before, or without

some addition by which the Juror might be well known, loseth 5 marks to the King, and 5 marks to the party, 27 *El. c.7. Lam. 432.*

Sheriff or gaoler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such, is fineable, 4 *E.3. cap.10. Lam. 434.*

Sheriff, Bailiff, or other officer or person, refusing to pay over to the Churchwardens, &c. the moiety of the forfeitures by the statute of 4 *Fac. against uttering of beer or ale to alehouse-keepers unlicensed, forfeiteth double value, 4 Fac. c.4. Lam. 434.*

Justice of Peace being chosen Sheriff, his authority of Justice is suspended during his Sherifffick; but after another is chosen and sworn, his authority as a Justice of Peace is as it was before without any new oath, except he be left out of the commission, *Dal. 11, & 12. Cro. 121.3. nu. 13, 14.*

Shoes.

Making shoes, pantofles, &c. contrary to the rules prescribed in the statute, loseth 3 shill. 4 pence for every pair of shoes, &c. and the value of them, 1 *Fac. c.22. Lam. 465.*

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3 shill. 4 pence and the value of them, 1 *Fac. c.22. Lam. 466. vide Leather.*

Shooting.

“ Any under the degree of a Lord of the
“ Par .

Shooting.

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"Parliament shooting within any City or
"Town at any fowl or other mark upon any
"Church or dove-cote, or any shooting in
"any place any hail-shot or moe pellers then
"one at a time, every time offending forfeiteth
"ten pound, and imprisonment for three
"moneths, 2 Ed.6. c.14.

Vide Archery, Cross-bows, Partridges.

Silk, *vide* Apparel.

Sope, *vide* Vessels.

Souldiers.

Souldier serving the King by sea or land,
doth willingly give, purloin, or put away any
horse or harness wherewith he was set forth,
(or being taken from other souldiers was ap-
pointed to him,) upon complaint thereof to
a Justice of Peace, he shall be committed with-
out bail, till he have made satisfaction, unless
he have been formerly punished by the Gene-
ral or other, or shew forth in writing under seal
the lawful loss thereof, 2 & 3 Ed.6. c.1. Lam.
194.

Souldiers passing out of the Realm to serve
any forein Prince, not having before their pas-
sage taken the oath of allegiance before the
officer appointed thereunto, it is felony, 3 Jac.
c.4. Dal. 288.

Souldier being a Gentleman, or of a higher
degree, or Captain, or other Officer in
Camp, passing to serve any forein Prince, &c.
before they be bound to the King with

wo sureties before the officer appointed, not to be reconciled to the Pope, &c. or to consent to any conspiracy against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felony, *ibid.*

Souldier entred upon record, and having taken press-mony, and that departeth without licence, it is felony, 7 H.7. c.1. 3 H.8. c.3. Dal. 288. or if they depart without licence after they have served in the Kings wars, 2 Ed. 6. c.2. Dal. *ibid.* So of mariners and gunners that have taken press-mony to serve the King on the sea, and come not unto, or depart from the Captain without licence, it is felony, 5 El. c.5. Dal. 288.

In these cases following, by the statute of 39 El. c. 17. souldiers and mariners do become felons, Dal. 288.

Such which set not themselves to some lawful course of life, but wander up and down idley, not having a lawful testimonial (if they come from beyond sea) from some Justice of Peace near the place of their landing, expressing the place and time of their landing, the place to which they are to pass, and a time limited for their passage; or having such a testimonial, if they shall exceed the time limited.

To forge or counterfeit such testimonial, or to have a forged testimonial, knowing that it is forged.

Or being retained in service after his arraignment,

raignment, &c. if he depart within the year without licence of his master.

Poor souldier, or mariner, or sea-faring man suffering shipwrack, may have a licence from a Justice of Peace next to his landing, to pass to the place of his repair, and may ask and receive necessary relief in his direct passage, within the time limited to him, 39 *El.* c.4. 39 *El.* c.17. *Dal.* 126. *Lam.* 303. 21 *Fac.* c.28.

Every parish is to be taxed to the relief of disabled souldiers, by the greater part of the Justices at their Quarter Sessions next after Easter, so as no parish be above ten pence, nor under two pence weekly to be paid, so as the total sum in any County where there shall be above fifty parishes, do not exceed six pence every parish, 43 *Elix.* cap.3.

The said taxation to be assessed within themselves, and in default thereof by the Church-wardens and pety Constables or the greater part of them, in default thereof by the Justices or Justice of Peace dwelling in the same parish, or, if none be there, in the parish next adjoining, 43 *El.* c.3.

In default of payment of the same assess, the Church-wardens and pety Constables may levy it by distress and sale, &c. and in their default the aforesaid Justices or Justice of Peace, 43 *El.* c.3.

The Church-wardens and pety Constables are to pay over their collections to the high Constable ten daies before every Quarter Sessions, and the high Constables at every Quarter

Quarter Sessions are to pay it over to the Treasurer, *ibid.*

If any of them make default, then the Churchwardens or pety Constables forfeit 20 shillings, and every high Constable 40 shillings, to be levied by the Treasurer by distress and sale for augmentation of the stock, 43 *El.c.3.*

Treasurer for maimed souldiers must be ten pound in lands, or fifteen pound in goods in the subsidy, and continue but for a year, and within ten daies after Easter Sessions following to give account to his successor; in default thereof or for other misdemeanour in his office, to be fined five pound or above by the more part of the Justices of Peace, 43 *El. cap.3.*

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawful certificate thereof by the general muster-master or receiver of the muster-rolls, Treasurer, or Controller of the Navy under his hand, is to come to the Treasurer of the County where he was prest, or if he were not prest, then to the Treasurer of the County where he was born or last dwelt three years, if he be able to travel so far, or otherwise to the Treasurer of the County where he landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Justices may according to their discretions grant him a pension during his life, if the said pension be not duly revoked or altered, 43 *El.c.3.*

Treasurers are to make payment quarterly of

of such pensions as shall be granted by the most of the Justices at the Qu. Sessions under their hands, and by them to be fined if they refuse to pay them, 43 *El.c.3.*

Pensions of souldiers and mariners, not having born offices, are not to be above 10 l. under the degree of a Lieutenant 15 l. a Lieutenant 20 l. 43 *El.c.3.* Pensions are revocable or alterable at the discretion of the Justices in the Qu. Sessions, 43 *El.c.3.*

Treasurer where any maimed souldier or mariner shall arrive upon certificate, (though not allowed) may give a testimonial of his own allowance, and convenient relief to carry him to the next County, leading him to the place where the general muster-master shall be: and so may the Treasurer of each County, leading him thither, and from thence to the County where he is to have his pension, 43 *El. cap.3.*

Treasurer is to enter into a book mony received and disbursed, with the parties names and certificate to whom it was paid, 43 *El. cap.3.*

Treasurer not allowing a certificate in the act of 43 *El.c.3.* expressed, must endorse the cause thereof on the certificate, 43 *El.c.3.*

Souldier or mariner counterfeiteth a certificate, or having a pension beggeth, he shall lose his pension, and be adjudged a rogue, 43 *El. cap.3.*

Souldier or mariner that cannot be relieved in the County where he was pressed, by reason that the whole taxation is imploied, shall be relieved where he was born or dwelt the last

last 3 years, at his election, 43 *El.c.3.*

Overplus of the stock for maimed souldiers is to be imployed by the greater part of Justices at the Qu. Sessions, to such charitable uses as are set down in the statute for poor, except it be by them reserved for future pensions, 43 *El.c.3.*

Star-chamber.

The experience of the Star-chamber is the best guide and direction for a Justice of Peace, *Lamb.175.*

Stoln goods.

After attainder upon evidence by the owner, the stoln goods are to be restored to the owner by writ of restitution awarded by the Justices before whom the attainder was, 21 *H.8.c.11.* *Lam.586. Dal.306. Cro.191.a. Vide* Restitution of stoln goods.

Stewards of Courts.

Stewards of the Sheriffs turn, Leet, or Py-powders, cannot grant surety of the peace unless it be by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a Court Baron cannot do, *Lamb.14. Dal.1. 10 H.6.c.7. Br. Leet 36.*

Stock

Stock of the shire. 303

The parishioners, and in their default the Churchwardens and Constables, are to assess the tax imposed upon the parish by the Justices at Easter Sessions, towards the relief of the prisoners in the Kings Bench, Marshalsey, Hospitals, and other losses by fire, &c. In default of them, any Justice of Peace dwelling in that parish, or (if none dwell there) the next Justice may assess the same; and the same Justice of Peace or any other Justice of Peace in that limit, in default of the Churchwardens and Constables, may levy the same by distress and sale of the offenders goods, rendering to the party the overplus, and in default of distress may commit such persons without bail till they pay the same, 43 *El.c.2. Dal.* 139.

In all taxations observe these rules, *Dal. ibid.*

1. The most reasonable taxation of land is by the yearly value, not the quantity.

2. He that occupieth lands in his own hands in several parishes, shall be charged in every parish proportionably for his land there.

3. The farmer shall be rated for the land, and not the lessor.

4. A man is not to be rated for his farm-rents, for that the occupier of the lands is chargeable for the same.

5. By goods in most cases a man may be rated, as well as by lands, but not both by goods and lands.

6. A man shall be charged for goods only in that town where the goods be at the time.

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time of assessment : the Constable and major part of the Parishioners, upon warning given in the Church, may make such taxations by law, *Co. 5 67. Br. Quin. 4 & 6. Dal. 140.*

The like may be done by the Churchwardens and the greater part of the Parishioners for Church-charges, *Dal. ibid.*

If the greater part will not meet, the officers and such as will meet may tax, *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia*, *Dal. 140. Vide Taxations.*

Subsidy.

Upon proof before two Justices of Peace that a subsidy-man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices, *Lam. 336. Dal. 141.*

Suggestion, *vide* Information.

Summons of the Sessions, *vide* Sessions.

Sunday.

All persons shall diligently and faithfully resort to their Parish Church or Chappel accustomed, or upon reasonable let to some usual place where Common-prayer shall be used, upon every Sunday and other day ordained and used to be kept holy-day, and then and there to abide orderly and soberly during

ring the time of Common-prayer, preaching, or other service of God, or lose twelve pence for every offence, to be levied by the Churchwardens there, to the use of the poor, by way of distress, 1 *El. cap. 2. Dal. 105.* though he be Popish Recusant convict or not convict, *ibid.*

If any subject do not resort and repair every Sunday to some Church or Chappel, or some usual place appointed for Common-prayer, and there hear divine Service, according to the statute 1 *El. cap. 2.* it shall be lawful for a Justice of Peace of that limit, upon proof by confession of the party, or oath of witness, to call the party before him; and if he or they make not a sufficient excuse, to the satisfaction of the said Justice, then to give warrant to the Churchwardens of the said parish under his hand and seal to levy twelve pence by distress to the use of the poor for every default, and for want of distress, to commit the offender to prison; every offender to be called in question within one month after the offence, 3 *Jac. c. 4. Lam. 418.*

None punished according to the branch of the statute of 3 *Jac. cap. 4.* shall be punished by 1 *El. c. 2.* for the same offence, 3 *Jac. c. 4.*

There shall be no meeting, assemblies or concourse of people for any sports or pastime out of their own parishes on the Lords day; nor Bear-baiting, Bull-baiting, Interludes, common plaies, or other unlawful exercises within their own parishes, upon forfeiture of 3 shillings 4 pence to the use of the

the poor, upon view of one Justice of Peace, confession of the party offending, or oath of one witness, to be levied by warrant of the said Justice under his hand and seal to the Constable and Church-wardens; in default of distress, the offender to sit in the stocks three hours. The offender to be questioned within one month, 1 *Car. c. 1. Dal. 63.*

Carriers, waggoners, wayn-men, drovers, shall not travel with horse, wagons, carts, or cattel upon Sunday, upon pain of twenty shillings for every offence. Neither shall any Butcher kill or sell any victual upon Sunday, on pain of 6 shillings 8 pence, upon view of one Justice of Peace, confession of the party, or oath of two witnesses; the penalty to be levied by the Constable or Church-wardens to the use of the poor by warrant of any Justice of Peace by distress, or by any that will sue for the same at the Qu. Sessions in the same County within six months, his reward not to be above the third part, 1 *Car. c. 1. Dal. 134.*

Shewing of Boots on the Sunday, with intent to sell them, loseth 3 shill. 4 pence, and the value of the Boots, 1 *Fac. c. 22. Lam. 466.*

Supersedeas.

Supersedeas is sufficient, though it neither name the sureties, nor contain the sum wherein they are bound; but it is better if it do both, *Lam. 96. Dal. 172.*

Supersedeas delivered to the officer, if he urge new sureties, the party may refuse; and if

if he be committed, he may have his action, *Lam. 99. Dal. 172.*

Superfedeas out of the Chancery will discharge surety of the Peace in the Kings Bench, and either of them a precept for the peace awarded by a Justice of Peace; and an attachment lieth against him if he surcease not, and he may be imprisoned and fined for it, *Lam. 99. Dal. 172, 173.*

Superfedeas received by a Justice of Peace out of an higher Court, he should forbear to make any warrant, or if one be made, to send out his *Superfedeas* to the Sheriff, or other officer, to desist to put it in execution, *Lam. 99. Dal. 172.*

Superfedeas out of the Chancery is to be certified at the next Sessions, together with the recognizance for the Peace; if the *Superfedeas* doe testifie that he hath found surety in the Chancery onely unto a certain day, which day is after those Sessions, if the *Superfedeas* come to his hands after his recognizance taken, *Dal. 173. Lam. 113.* for peradventure the recognizance was broken before the *Superfedeas* purchased.

Superfedeas for the good abearing, *quare* if it may be granted by a Justice of Peace, *Lam. 123. Dal. affirmeth it, 197.*

A *Superfedeas* made by a Justice of Peace, and returned under his seal, is a sufficient record to prove a recognizance taken for the Peace, and warrant to call the party bound, and if he make default, to record the same, *Lam. 97.*

If a Justice of P. will by a *Superfedeas* discharge

charge a Precept for the Peace awarded by another by virtue of his office, and not by *Supplicavit*, the recognizance would be taken according to the form of the Precept, *Lam. 96. Dal. 172.*

Certiorari to remove a record is in it self a *Superfedeas* to the Justices, yet the party may have a *Superfedeas* to the Sheriff that he arrest him not upon the Justices record, *Lam. 515.*

Whether the Justices *ex officio* after a *Certiorari* ought to award their *Superfedeas*, to stay proceeding upon the record, *quare Lam. ibid.*

An *Exigent* awarded against one indicted of a trespass before the Justices of Peace, may be stayed by *Superfedeas* out of the Chancery, upon surety found there to appear at the day in the Writ, though he be taken upon it, *Lam. 526, 527.*

So by *Superfedeas* granted by two Justices of Peace, one being of the Quorum, testifying that he hath found sureties, *de sine assidendo*, *Lam. ibid.*

Yet *Dal.* and *Cro.* say, by one Justice of Peace, *Dal. 319. Cro. 234. a.*

If a *Superfedeas* be directed to the Justices of Peace and Sheriff, the Justice to whose hands it shall be delivered, may keep it, and deliver the label to the party, *Dal. 173.*

Superfedeas granted for the Peace, or good behaviour, out of the Chancery or K. Bench, is void, unless it be upon motion in open Court, and upon sureties of five pounds in lands, or ten pounds in goods in subsidy, "and unless it appear to the Court that such "process of P. or good behaviour is prosecu-
"ted

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"ted against the desirer of such *Supersedeas*
" *bona fide* by some grieved in that Court out
" of which the *Supersedeas* is desired, 21 *Fac.*
" c.8. *Dal.* 174.

Whether the party bound, sending the *Supersedeas* to the Sessions, be discharged of his appearance there, *quare Dal.* 173. *Lam.* 113. the precedents are. that the party appeared and prayed allowance, &c.

Supplicavit.

He onely to whom the *Writ* of *Supplicavit* is delivered, must execute it, *Dal.* 186.

The Justice that receiveth the *Writ*, may make the Warrant to the Constable or other party indifferent; and if he refuse to finde sureties, to carry him to prison, *Dal.* 186.

The party attached can be bound onely before him that sent out the Warrant, *Dal.* 186.

The Justice is to execute the *Supplicavit* as it directeth, *Dal.* 187.

If the summes be left to discretion, it is safe to take good summes, *Dal. ibid.*

After sureties taken, the Justice may make him a *Supersedeas*, *Dal.* 187.

The Justice needs not return the *Supplicavit*, nor make certificate, until a *Certiorari* do come to him, *Lam.* 109. *Dal.* 190.

Supremacy.

To refuse the oath of Supremacy, the first offence is *Pramunire*, the second Treason, 5 *Elix. cap.* 1.

Surety

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Surety of the Peace is the acknowledgement of a recognizance to the King (taken by a competent Judge of record) for the keeping of the Peace, *Dal. 161. Lam. 75.*

Every Justice of Peace may take and command the Peace either as a Judge or a Minister, *Dal. ibid.*

Justice of Peace may command surety of the peace, either of his own discretion, or at the prayer of another.

In what cases a Justice of Peace may command surety of the Peace by his own discretion, Dal. 162.

1. One that maketh an affray upon the Justice himself, or an assault.
2. Such as in his presence make an affray upon another, or offer to strike another.
3. Such as in his hearing shall threaten to kill, beat, or hurt another, or to burn his house.
4. Such as in his presence contend onely in hot words.
5. Such as in his presence goe or ride armed offensively, or with unusual number of servants or attendants; and servants and labourers that bear any weapons contrary to the statute of 12 Ric. 2. cap. 6.
6. Any person by him suspected to be inclined to break the Peace.
7. If the Constable bring one before him that shall threaten to kill, maim, or beat another.
8. If the Constable bring one who in his presence attempted to break the Peace by drawn

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drawn weapon, striking or assaulting another.

9. Whom the Constable findeth fighting or quarrelling in a house, he may break open the door, and bring them before a Justice of Peace to be bound.

10. He may make his warrant for such as have made an affray, and bind them to the peace.

11. If one have received a wound, he may bind the one and the other till the wound be cured, and the malice over.

12. Such as go or ride armed offensively to fairs or markets, or wear or carry dags or pistols charged.

13. Common Baretours, *Dal.* 163.

14. Rioters.

15. Him that standeth bound to keep the peace, and hath forfeited his recognizance by breach of the peace; but not till he be convicted, and the forfeiture levied, *Dal.* 163. Yet *Cro.* 141. saith, that he may be bound anew if he be only convicted for breaking the peace.

16. Him that standeth bound, if his sureties be insufficient.

Justice of Peace is to send to prison him that refuseth to give sureties, until he find sureties, *Dal.* 163. *Cro.* 138. b. nu. 8.

Justice of Peace may cause one to be arrested to find surety of the peace against another, and grant a warrant for it, for he might have bound him of his own authority, *Dal.* 163.

“Justice of Peace may perswade a man to
“require

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“ require surety of the peace against another, and grant a Warrant for it: for he might have bound him of his own authority, *Lam. 78. Dal. 162, 336.*

At the request of another he may command surety of the peace, but must first take an oath of the party that demandeth the peace, that he standeth in fear of his life, or of some bodily hurt, or to have his house burnt, *Lam. 83. Dal. 163.*

“ Sureties in a recognizance ought to be two, and registred in Subsidy: for though some may be sufficient which were not assessed, yet it standeth not well together, that he should be bound to the King in 10 pound or 20 pound that in subsidy was not found worth any thing, *Dal. 175.*

“ Justices of Peace in Sessions may examine sureties upon oath of their sufficiency, *Dal. 175.*

Causes to require surety of the Peace.

1. He that is threatned to be hurt in body as to be beaten, wounded, maimed, or killed *Dal. 164.*

2. He that feareth another will beat, wound, maim, or kill him, *Dal. ibid.*

3. He that feareth another will burn his house, *Dal. ibid.*

4. He that feareth that *A.* will procure another to hurt him in his body, or burn his house, *Dal. 164.*

5. If a man lie in wait to beat, kill, or hurt another, *Dal. ibid.*

Quare, if he threaten to burn his goods.

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In what cases a man shall not have the Peace granted.

1. To threaten one to imprison him, *Dal.* 164. *Lam.* 82. *Cro.* 135. 3. *Quare tamen.* *Br.* *Peace* 22.

2. Where one is in fear that a man will hurt his servant, cattel, or other goods, *Dal.* 164. *Cro.* 138. 2. *Lam.* 83. but he may have a writ out of the Chancery. *Dalt.* seemeth to be of the other opinion, 164.

3. Because he is at variance with his neighbour, *Dal.* 164. *Lam.* 83.

4. Where there is no fear of present or future danger, *Dal.* 164. *Lamb.* 84.

5. For a battery past : yet a Justice, if he see cause, may bind over the affrayers, *Dal.* 165. *Pax Regis* 14.

Justice of Peace may deny to grant surety of the peace, if it be upon mere vexation ; yet if the party will take his oath , it is not safe to deny it, *Dal.* 165. yet afterwards perceiving it to be of malice , and for vexation, he may bind the party so requiring it to his good behaviour.

Against whom Surety of the Peace may be granted.

Against a Knight, or any person under the degree of a Baron, *Dal.* 166.

"Against Sheriff, Coroner, Eschaetor, or other officer of Justice. But it is not good to bind them *versus cunctum populum*,
P

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“ pulum , Dalt. 166. Lamb. 80, 81.

Against any Ecclesiastical person not doing divine Service in the Church or Church-yard, or other place dedicated to God, *Dal. 166. 50 Ed. 3. c. 5. 1 R. 2. c. 15.*

One Justice of Peace may grant the surety of the peace against his fellow Justice, though sitting in Sessions, *Cro. 134. b. Dal. 167. Lam. 80.*

One Justice of Peace may demand the peace against another man, *Lamb. 81. Dal. 167.*

The wife may demand the peace against her husband, if he threaten to kill her, or outrageously beat her, or she have notorious cause to fear it; and the husband may crave the peace against his wife, *Dal. 167. Lamb. 78. Cro. 133. b.*

The peace may be granted to a feme-covert, or an infant under the age of 14 years, if he have discretion to crave the peace, but they must be bound by sureries, and an infant under that age may demand it, *Dal. 167. Lam. 79.*

A Lunatick may crave the peace, and have it granted him, *Dal. 167. Lam. 79.*

It may be granted against one attainted either of treason or of felony, or convicted of heresie, *Dal. 168.* and they may demand it, *Lam. 79.*

It may be had against an excommunicate person, *Dal. 168.* and an abjured person, *ib.*

It may be had against one attainted in *Præmunire*, and against an alien either made denison, or living in England, *Dal. ib.*

It may be had against one dumb and blind, *lo*

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to against an impotent person, *Dalr.* 168. *Lam.* 79.

Against whom the Peace cannot be granted.

1. It cannot be granted against any Nobleman, or Noblewoman, *Dal.* 165.
2. Against one *non sana memoria*, unless he have *lucida intervalla*, *Dal.* 167. *Lam.* 79.
3. Against one born dumb and deaf; but if he become dumb and deaf, or made blind and deaf accidentally, he may have understanding, and the Peace may be granted to him or against him, *Dal.* 168.

How the surety of the Peace is to be commanded and executed.

A Justice of Peace may $\left\{ \begin{array}{l} \text{word,} \\ \text{command the Peace by} \end{array} \right. \mathcal{W} \text{riting.}$

By word.

The party being present in the presence of the Justice of Peace, threatneth another, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace, *Dal.* 169. *Cro.* 138.b. nu. 8. *Lamb.* 84, 85.

One demandeth the surety of the Peace, being present, and taketh his oath he is assayed, &c. the Justice may command the other to finde surety, *Dal.* 169. *Cro.* 138.b. *Lam.* *ibid.*

The Justice in such cases may command the Constable or other known officer, or his

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own servant being present, to arrest such party to finde surety of the Peace, and may commit to the Gaol such party refusing to finde surety, *Dal. Cro. Lam. ibid.*

By writing.

The Justice by precept or warrant in writing under his seal directed to some known officer, or other indifferent person, containing the cause and at whose suit, to the end the parties may provide the sureties, and take them with them, *Lam. 87. Dal. 170.*

The Justice may make his warrant to bring the party before him, but the usual manner is to bring the party before the same Justice, or some of the Justices of the County, *Dal. 170.*

Who may serve the Warrant, vide Warrant.

The Constable is first to acquaint the party with the matter in the Warrant; and if he refuse to go before the Justice to finde sureties, he may arrest him and carry him to the Gaol, without carrying him to the Justice, *Lam. 90. Dal. 170. Br. Faux Impris. 18.*

If the party yield to finde surety, the officer is not bound to go up and down with him, but may keep him until he can procure sureties to come to him; if afterward he make resistance, or offer to go away, he may by his warrant carry him to the Gaol, and set him in the stocks till he can get aid to convey him to the Gaol, *Dal. 170. Lam. 92.*

The arrest is not justifiable except the Officer do carry him to the Gaol that refuseth to finde sureties, *Cro. 171. b. Dal. 171.*

The

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The party may goe before any other Justice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travel out of the division where they dwell. Nay it is at the election of the officer to carry the party to any other Justice, rather then to give the election to the delinquent, *Dal. 171. Lam. 94.*

The party coming before the Justice is to offer his sureties, or else the Justice is to commit him, for the Justice needeth not to demand them, *Dal. 171.*

If the party refuse before the Justice of Peace to finde sureties, the Officer by the first Warrant may commit him, *Dal. 171. Lam. 92.*

The Officer is fineable if he arrest the party, and doe not carry him before a Justice of Peace, if he be willing to finde sureties; secondly, if upon refusal they arrest him, and do not carry him to the Gaol, *Dal. 171.*

The party being imprisoned, the Justice of Peace may make him his *Liberate*; first, if the complainant die; secondly, if he do enter surety of the Peace, *Dal. 171.*

If the imprisoned have a suit depending in the common Pleas, by some opinions, the imprisoned may be discharged by a Writ of privilege. *Quare tamen. Dal. 171. Lam. 94. Cro. 138. a. nu. 4.*

A sworn and known officer needeth not to shew his Warrant, but the servant of the Justice must shew it if it be required, *Lamb. 89. Dal. 340.*

If Husband and Wife be bound to appear, and in the mean time to keep the Peace,

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and the Husband onely appeareth, the recognizance is not forfeited, *Dal.* 179. *Quare Cro.* 144. b.

Suspicion & suspects of felony.

A suspect of felony ought not to be arrested by a Warrant from a Justice of Peace, unless he be indicted before: for if the Bailiff which serveth the Warrant doth suspect him, he may doe it of himself without a Warrant; and without suspicion the Justices Warrant is no Warrant, *Lam.* 188. *Dal.* 339. *Cro.* 147. b. 148. b. 197. a. nu. 21. *Quare Dal.* 339. *Br. Faux Imprif.* 8.

Suspicion onely without felony committed, is no cause to arrest another, *Cro.* 154. a. nu. 28. *Dal.* 331. *Brook ibid.* 1, 4.

A felony being committed, every man may arrest suspicious persons that be of evil fame, &c. and if such person make resistance, the other may justifie to beat him, *Dal.* 345.

The Constable or other person that arresteth one for felony or suspicion, must himself suspect, *Dal.* 311, 345. *Cro.* 99. b. nu. 43.

“ In an arrest for suspicion of felony, the
“ party that causeth the arrest must suspect
“ him, and also shew some cause of suspicion:
“ otherwise every man may arrest another for
“ felony done, *Cro.* 99. b. nu. 44. *Dal.* 311, 312.
“ where he maketh a *quare*.

Swans.

Taking away from his own or another
mans

mans ground Swans eggs of another mans, upon conviction and examination of witnesses is imprisonment for a year and a day, and loss of ten pound, *Lam. 446.*

To steal Swans unmarked, if they be *domiti*, and kept in a mans manour or private rivers, is felony, *Dal. 267.*

Swearing.

He that sweareth or curseth, being convicted by hearing of any Justice of the Peace, or by oath of two witnesses, or confession of the party before a Justice of Peace, loseth 12 pence to the poor, where the offence shall be committed, to be levied by distress, the offence being proved within twenty daies; or for default of a distress to be set in the stocks three hours, *21 Jac. cap. 20. & 3 Car. cap. 4.*

“The Warrant for distress is to be made to the Constable, Churchwardens, and Overseers of that parish where the offence is committed, *21 Jac. c. 20.*

The offender being under twelve years of age, and not forthwith paying his twelve pence, by warrant of a Justice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence, *ib.*

Taxations, *v.* Stock of the shire.

TAXATIONS made for a Common-wealth, as making or mending of bridges, highwaies, causeys, sea-banks, &c. shall be upon all persons though they assent not, *Dal.* 141. *Coke* 5, 63. *Br. Customs* 6.

“ A town is amerced, and by assent of
 “ neighbours every inhabitant is assessed, and
 “ they appoint I. S. to collect it, and, for non-
 “ payment such a day, to distrein: such a dis-
 “ tress taken by I. S. for rates is good, *Dal.* 141.
 “ *Brook Customs* 6. *Coke* 5, 63. *Doctor* &
 “ *Student* 74.b.

Tale-bearers, *vide* News.

Tanners, *vide* Leather.

Tavern-keeper.

Assignment of such as shall keep a Tavern to utter wine, is to be made at the general Sessions, unless it be otherwise by special grant, 7 *Ed.* 6. cap. 5. *Lam.* 614.

Testimonial.

Testimonial under the hand of one Justice of Peace sealed, is sufficient to pass in hay-time and harvest-time from one County to another, *Lam.* 190.

In all testimonials and passports, some assured marks of the party, by which he may infallibly be distinguished and known from others, are fit to be specified, *Lam.* 206.

Testi-

Testimonial for a serving-man turned from his masters service, or whose master is dead, ought to be made by two Justices of Peace, 27 *El. ca. 11. Lam. 331. Dal. 127.* maketh a *Quare.*

“None retained in husbandry is to depart without Testimonial at the end of his term, 5 *El. c. 4. Vide Servants.*

Theft.

Theft is a fraudulent and felonious taking of another mans personal goods, in the absence of the owner, and without his knowledge, *Lam. 172. Dal. 262.*

Theft is either Grand-larceny, or Pety-larceny.

Grand-larceny is when goods stollen are above 12 pence, and it is felony of death, except the party be saved by his book, *Dal. 263.*

Yet if the goods be of more value, and the Jury find it did not exceed 12 pence, it is not Grand-larceny, *Dal. ibid.*

Pety-larceny is if the goods do not exceed 12 pence, and is not felony of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the Justices before whom the party is arraigned, *Dal. ibid.*

For pety-larceny, the Justice of Peace before whom the offender shall be brought is not to punish him, but either to send him to the house of Correction, or to bail him, *Dal. ibid.*

Pety-larceny is forfeiture of goods and chattels.

Six pence, four pence, and three pence, being taken by one at several times from one and the same person, may be put together in one indictment, *Dal. 263. Lam. 273. Stam. 24.*

If two or more steal above 12 pence from one, it is felony of death in every one, *Dal. ib. Lam. 273.*

The manner.

To make an act larceny, there must be first a taking, secondly, a carrying away, *Lam. 277. Dal. 263.*

Yet it may be felony though the offender came to it by the delivery of the owner, *Lam. 278.*

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony, *Dal. 264. Lam. 278. Cro. 35. b. nu. 4.*

A Carrier carrieth goods to him delivered to the place appointed, and there breaketh them up, and embezelleth them; it is felony, *Dal. 264. Cro. 36. a. nu. 13. Lam. 279.*

A Carrier taketh out parcels of the goods to him delivered; it is felony, *Dal. 264. Cro. 36. a. nu. 11.*

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his own use; it is felony, *Dal. 264. Lam. 278.*

Where, after delivery, the imbezelling is no felony.

A Carrier imbezelling the whole, *Lam. 278. Cro. 36. a.*

A stranger borroweth a horse, and rideth away.

A Clothier delivereth his wool to his work-folk.

One delivereth his goods to another to keep.

One delivereth mony to A. to pay B.

Felony in servants by force of the statute 5 El. cap. 10.

Servant of the age of 18 years (other then an apprentice) to whom any mony, goods, or chattels, &c. by his master or mistress shall be delivered to keep, of the value of 40 shillings or above; if he go away with, or convert the same to his own use, with intent to steal the same, or to defraud his master or mistress, it is felony, if it be prosecuted within a year, *Lam. 279. Dal. 265.*

Wherein are divers cases.

A man receiveth of his master 20 pound in gold to keep, which he changeth into silver, and runneth away with it, they are both of one nature, therefore felony, *Dal. 265. Lam. 280. Cro. 35. b. nu. 6.*

One servant delivereth to his fellow-servant to the value of 40 shillings of his masters goods, and he goeth away with it, or converteth it to his own use; it is felony, *Dal. ib. Cro. 50. a. Lam. 280.*

A servant maketh a garment of his masters cloth, and goeth away therewith; it is felony, *Dal. 265. Cro. 50. a.*

Quare

Quare of barley converted into malt, or mony melted into a piece of metal, *Dal.* 266.

An obligation is delivered unto a servant, and he goeth away with the mony received upon the same obligation; it is no felony within the statute of 5 *El.* c. 10. for the master delivered not the mony, *Dalt.* 265. *Cro.* 35. b. nu. 5. 50. a.

The servant carrieth his masters wares to market, selleth them, and goeth away with the mony, or converteth it to his own use; it is not felony within the statute of 5 *El.* c. 10. *Dal.* 266. *Cro.* 50. a. *Lam.* 280.

A Receiver receiveth rents, and goeth away with them; it is no felony, for the statute is, where the master delivereth to keep, *Dal.* 266. *Cro.* 50. a.

I deliver to my servant an horse to ride to market, or mony to buy things or pay another, and he goeth away with it; it is no felony at the Common law, for it was of his masters delivery, *Dal.* 266. *Cro.* 35. b. nu. 7. *Quare* if it be not felony by 5 *El.* c. 10.

“ My shepherd selleth my sheep falsly, it is felony, *Cro.* 35. b. nu. 9, but *Stamf.* 25. a. *e. contra.*

A servant keepeth the key of his masters chamber-door, and taketh away above the value of twelve pence; it is felony at the Common law, for they were not delivered him, *Dal.* 266. *Lam.* 279.

A guest taketh the sheets or other goods of the host feloniously into some other room of the house, it is felony, *Dal.* 266. *Cro.* 35. a. nu. 2. *Lamb.* 281. *Br. Coron.* 107.

A man feloniously taketh an horse, and is apprehended before he gets out of the close where he went, *Lamb. 281. Dalt. 267. Cro. 36.a. nu. 12.*

Not enquirable before Justices of Peace.

A servant taketh away or spoileth his deceased masters goods; in default of appearance in the Kings Bench after proclamation, it is felony, *Dal. 266. Cro. 56.3.6. 33 H.6.c.1.*

Of what things felony may be committed.

Of moveable goods, as mony, plate, apparel, household-stuff, &c. so of corn, hay, trees, fruit, &c. being severed from the ground, *Dal. 267. Lam. 273.*

Of domestical things, as horses, mares, colts, oxen, kine, sheep, lambs, swine, pigs, hens, geese, ducks, turkeys, or any other domestical beasts or birds of tame nature: and though they run or fly away out of the owners sight, the detainer is punishable by action, *Dal. 267.*

Of wild nature, young pigeons out of another mans dove-house, young hawks or herons breeding in parks or several grounds, fishes kept in a trunk or pond, *Cro. 36.b. nu. 22. Lamb. 274. Dal. 267. Stam. 25.* saith goshawks.

Quare of old doves in a dove-house, *Lam.*

So swans marked, and at large, and tame deer marked and domestical, if the taker know it to be tame, *Dal.* 267. *Lam.* 275. *Cro.* 36. b. *nu.* 23.

By statute it is felony to hunt deer or conies after some sort in park, forest, or warren, or to take a tame beast or other thing in a park by manner of robbery, *Vide* 3 *E.1.* c. 20. 1 *H.7.* c. 7. *Lam.* 275. *Dal.* 268.

So to take away or conceal an hawk, *ib.*

To steal the flesh of tame or wild fowl dead, is felony, *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull wooll off the sheeps backs, or to kill them for their skins, *Dal.* 269. *Cro.* 36. a. *nu.* 17. *Lam.* *ib.*

A man may commit felony in taking his own goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue, *Dal.* 270. *Cro.* 37. b. *nu.* 42. b. *Stam.* 26. a. *Lamb.* 277. *Br. Coro.* 142. *quare.*

I lend or deliver my plate or goods to another, who melteth my plate, or changereth the fashion of my goods, to take them feloniously is felony in me, *Dal.* 270. *Cro.* 37. a. *nu.* 34. *Lam.* 277.

If a man pursue or take a felon that hath stollen his goods, taketh them and suffereth the thief to escape, he is no accessory; for he may *agere civiliter aut criminaliter in initio*, *Lam.* 290. *Termes of Law*, *Titu. Theftiboot*, *Cro.* 37. a. 45. b. 42. b. *P.R.* 131. *Dal.* 296.

If the party robbed take mony, &c. of the thief,

chief, to the end that he shall not give evidence against him, whereby the thief escapeth, he is accessory to felony of his own goods, *Lam. 290. Dal. 296. Cro. 41. nu. 5.*

Quare, if a man having made complaint to a Justice of Peace, take his stolen goods again, and doth not prosecute the matter, whether it make him not accessory, for that he did once *agere criminaliter*, *Dal. 296.*

Of what things felony is not committed.

Things which are real chattels, *Lam. 275, 276. Dal. 270.*

To cut down any tree or corn, or pull any apples, or carry them away, *Dal. 270. Lam. 276.* Being cut and gathered for one, and then for another to carry them away, it is felony: or if a stranger cut at one time, and carry away at another time, it is felony, *Dal. 270. Cro. 36. b. nu. 26. Lam. 276.*

Lead upon an house or Church is part of the freehold, *Dal. 270. Cro. 37. a. nu. 33.*

Evidence of a mans land, indenture of lease, or other writings in box or out of box, cannot be valued, *Lam. 275. Dal. 270.*

To take away an infant in ward, is no felony, *Dal. 270. Lam. 276.*

Treasure trove or hidden, wreck of the sea, goods waived or strayed; for the owner is unknown, *Lamb. 276. Br. Coro. 96. Dalt. 270.*

But felony may be committed by taking
bona.

bona ignoti, or mortui & ignoti, or parochianorum, or of a Church or Chappel, or of a Corporation in time of vacation, Lam. 276, 277. Dal. 270.

*What persons are chargeable
in larceny.*

A woman covert by her self, her husband not knowing thereof, committeth larceny as principal, if she steal another mans goods; or as accessory, if she receiveth the thief that stole them, or receiveth the stolen goods into her house, knowing them to be so, or locketh them up; and the husband knowing thereof, the law will impute the fault to him, not to her: but if the husband so soon as he knoweth it, forsake his house and her company, and remain elsewhere, he shall not be charged for her offence, *Sta. 26. P. R. 130. Lam. 282. Dal. 271.*

The husband delivereth goods to a stranger, the wife stealeth them from the stranger; it is felony in the wife, *Dal. 271.*

A stranger goeth away with another mans wife, and against her will carrieth away her husbands goods; it is felony in the stranger, *Cro. 35. a. nu. 2. P. R. 130. Dal. 271.*

A servant stealeth by the compulsion of his master, it is felony in both, *Cro. 37. a. nu. 37. Dal. 273.*

Who are not felons.

A wife stealeth by the compulsion of her husband, it is no felony in her, *Cro. 36. b. nu. 27.*

37.a. nu. 36. *Lam.* 282. *Dal.* 271. but to do murder by her husbands compulsion, is felony in both, *Dal. ibid. Cro.* 37.a. nu. 38.

A wife stealeth by commandment of her husband without constraint, *quare Dal.* 271. *Stam.* 26. *P. R.* 130. *Lam.* 281.

The husband and wife together steal goods, it is felony in the husband only, *Dal.* 271. *Stā.* 26. *Lam.* 282.

A wife stealeth goods delivered to her husband, it is no felony, *Dalt.* 272. *Cro.* 37. a. nu. 35.

The wife stealeth her husbands goods, and delivereth them to strangers, it is felony in neither, *Dal.* 272. *Stam.* 27. *Lam.* 282. *Cro.* 35. a. nu. 2.

The wife receiveth the husband being felon, and relieveth him, she is no accessory, *Cro.* 42.b. nu. 22. *Dal.* 272. *Stam.* 26.f.

An ideot, lunatick, dumb and deaf person, and an infant, are chargeable in larceny after the same sort as they are chargeable in homicide, *Lamb.* 282. *Dal.* 273, 295. *Vide* Manslaughter.

Threatning.

He that shall be threatned to be hurt in his body, to be beaten, wounded, maimed, killed, may crave and have the peace against the other, *Dal.* 164. *Lamb.* 82.

If a man be threatned to have his goods burned, *quare* if he may have the peace, *Dal.* 164. *Lam.* 82.

To threaten to imprison a man, is no cause
of

of the craving of the peace ; for the wronged may have his action of false imprisonment, or his Writ *de homine replegiando*, *Dal.* 164. *Lam.* 82, 83. *Quære.*

To enter peaceably into an house, &c. and put out *B*, and presently threaten and say to *B*, that if he do come thither again to enter, he will kill him ; this seemeth a forcible entry : and if *B* come again to make his entry, then if the other shall threaten to kill him, if he entereth, it is a forcible detainer, *Dal.* 202. *Cre.* 70.b. *nu.* 39.

Tile-making.

One Justice of Peace may enquire, hear, and determine by his discretion, as well by examination of the offender, as otherwise, the offence committed in tile-making, and assess the fine therein limited, and may appoint men skilful to be searchers. *Quære tamen* whether one may do it alone, *Lam.* 193, 194. *Dal.* 144. 17 *E.* 4. c. 4.

Earth for tile is to be digged before the first of November, and to be turned and stirred before the first of February following, and to be tried from stones, veins and chalk, and not to be wrought before March following, or lose double the value to the buyer, 17 *E.* 4. c. 4. *Lamb.* 468.

Plain tile put to sale, is to be ten inches and an half long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shillings a hundred, 17 *E.* 4. c. 4. *Lam.* 468.

Roof-tile must be 13 inches long, half inch and

and half-quarter of an inch thick, conveniently deep, or lose 6 shill. 8 pence. *an hundred, ibid.*

Gutter-tile must be 10 inches and a half long, of convenient breadth, depth, and thickness, or lose two shillings an hundred, *ibid.*

Searchers of tile, for every default in searching, lose 10 shill. *ibid.*

Tipling.

The Inne-keeper, Victualler, or Alehouse-keeper, that suffereth any to continue tipling in his house, shall forfeit 10 shill. to be levied by
 "distress, by warrant from one Justice of
 "Peace, and to be sold after 6 daies; for want
 "of distress to be sent to the gaol till payment
 "be made, 1 *Fac. c.9.* 7 *Fac. c.10.* 1 *Car. c.4.*
 " *Lam. 192.*

"The Oath of Constables, Churchwardens,
 "Headboroughs, Tithingmen, and Alecon-
 "ners, are to be enlarged, and extend to pre-
 "sent all offences against the statutes of 1 *Fac.*
 " *c.9.* & 4 *Fac. c.5.* 21 *Fac. c.7.*

Any continuing tipling in an Inne, Victu-
 alling-house, or Alehouse, shall forfeit 3 shill.
 4 pence to the poor, or not being able to pay
 the same, shall sit in the stocks four hours,
 1 *Fac. c.9.* 7 *Fac. c.10.* 21 *Fac. c.7.* *Vide Ale-*
houses, 4 Fac. c.5.

Tithes.

Two Justices of Peace, one being of the
 Quorum,

Quorum, upon complaint by any competent Judge of tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to be attached and committed to ward, till he finde surety by recognizance to obey the sentence and process of the Judge, 27 H.8. c.7. 27 Eliq. c.11. Lam.357. Dal.141.

Upon complaint in writing by an Ecclesiastical Judge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged; two such Justices of Peace may cause the party to be attached and imprisoned, till he finde surety to perform the sentence, 32 H.8. c.7. Dal. 144. Lam.357. Cro.197.a. nu.22.

Toll.

Miller taking Toll by heaped measure, is to be fined, 31 Ed.1. *de pistoribus*, Lam.461.

Miller taking excessive Toll, viz. more then the twentieth or twenty fourth part of the Corn according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise then by strike, shall be grievously amerced, 51 H.3.c.3. Cro.92.a.

A Miller shall have Toll of a bushel of hard Corn three wine pints, and of a bushel of Malt but one pint, if the Corn be brought to the Mill; for that a Mill will grinde three bushels of Malt as soon as one bushel of hard Corn Cro.92.a. *Quere*, for 51 H.3.c.3. doth not expresse so much. *Vide Dal.* 151.

Toll-gatherer for horses taking above a
peny

peny for one contract or entring the parties names, and that in the same place onely where the market or fair is, and between ten of the clock in the morning and Sun-setting, loseth ten shill. and is to answer the party grieved, 2 *C* 3 *P.* & *M.* c. 4. *Lam.* 471, 472.

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one credible witness that will testifie he knoweth the sellers name, mystery, and dwelling-place, and there to enter them with the true price of the horse, or loseth 5 l. 31 *Eliz.* c. 12. *Cr.* 91. a. *Lam.* 472.

Any giving testimony to the Toll-taker, unless he do truly know the same, loseth five pound, *ibid.*

“ A thief selleth a stollen horse by a false name, and is so entred into the Toll-book, such misnaming maketh the sale void, *Dal.* 74.

Toll-taker refusing to give to the buyer or taker of such an horse, &c. a true note in writing of his entry, the party paying two pence for the same, loseth 5 l. 31 *El.* c. 12.

Transportation.

Every man may transport corn, it being at the prices following, except it be forbidden by proclamation, 1 *Jac.* c. 25. 21 *Jac.* c. 28. 3 *Car.* c. 4.

Wheat,	} } a quarter	{	26 shill. 8 pence.
Rie and			
Pease,		{	15 shill.
Barley and			
Oats,	} }	{	14 shill.

Every

Every subject born within the Realm, when the prices of corn at the times, places, and havens when and where the said corn shall be bought, shipped or laden, exceed not the rates following, may carry and transport of his own, and buy to sell again in markets, or out of markets, and to keep, or sell, or carry, or transport any of the said corn from the places where they shall be of such prices, unto any parts beyond the seas in amity with his Majesty, in English vessels, or carry or sell in other places within the Realm, except where such transportation shall be forbidden by the Kings Proclamation, 3 Car. c. 4.

Wheat,	} a quarter	32 shill.
Rie,		
Pease and		20 shill.
Beans,		
Barley,		16 shill.

Every man may transport any beer, when the price of a quarter of Malt exceedeth not 16 shillings.

Traverse:

Traverse is the denying of the chief matter in an indictment, *Lam.* 540.

Traverse upon a forcible entry or detainer found upon presentment, *quare* before whom the traverse is to be made or tendred, *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of a force, the Justice of Peace must make the restitution by the statute of 8 H. 6. or else deliver or certifie the presentment in the Kings Bench, *Lam.* 158. *Dal.* 60.

Traverse

Traverse lyeth where one Just. of P. alone will take upon him to record a Riot that he seeth, and the party shall not be concluded thereby, *Lam.* 182.

Traverse of an indictment of felony or treason is not usual, *Lam.* 541.

Traverse of an indictment may be before the Justices of Peace, *Lamb.* 542. If the Court where the presentment is found cannot award process thereof, it cannot receive a traverse of the presentment, as a leet of bloodshed, *Lam.* 542.

That Court that may award process *ad respondendum* upon an indictment, may take a traverse of it, *Lam.* 543.

Presentment of bloodshed found in the Sheriffs turn, and sent to the Justices of Peace, cannot be traversed before them, *L.* 542.

One of the enquests presents himself, it is not traversable, *Lamb.* 543.

"Where process *ad respondendum* goeth out upon an indictment that is traversable, the party may offer and have his traverse, *Lam.* 542, 543.

"*Quere* whether a man be admitted to traverse a presentment except it charge him in the freehold, *Lam.* 543.

Travelling beyond the Seas.

Officer of Ports, or owner of a Vessel, suffering any woman or child under 21 years of age, except Sailers ship-boies, apprentices or Factors of Merchants in their trades, to go, or carrying any of them beyond sea, without licence of the King or six of the Privy Council

sell under their hands, such Officer of the Ports forfeiteth his office and all his goods, and the master of the Vessel his Vessel, and imprisonment without bail for twelve months, and loseth also all his goods,
3 Fac. c. 4.

Any subject going beyond the seas to serve any forain State, not taking the oath of allegiance before the Contrôller or Customer of the Port, or either of their deputy or deputies, before his going, shall be a felon: the oath by them to be registred and certified into the Exchequer once every year, or lose 5 l. for every oath not certified, *3 Fac. c. 4.*

Any Gentleman, or of an higher degree, or Captain, or other officer in the army, before his going beyond sea to serve any forain Prince or State, must be bound by the Contrôller or the Customer of the Port, with two sureties allowed by the Officer, unto the King in 20 pound, with condition not to be reconciled to the Pope, nor to practise any thing against the King, but knowing any thing to reveal it: the same bond to be by them registred and certified into the Exchequer once every year, or lose 5 pound for every default,
3 Fac. c. 4.

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without licence of the King or six of the Privy Councel, (whereof the principal Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods or chattels, untill he or they being 18 years old or above,
take

Travelling. 337

take the oath of Allegiance before one Justice of Peace of the County where the parents dwelt or dwell : and in the mean time the next of kin, being no Popish Recusant, to enjoy them till he shall conform to take the said oath of Allegiance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the mean profits, and in reasonable time to make payment thereof. And the senders lose 100 pound, one third part to the King, another to the suer, another to the poor, 3 Jac. 6. 5.

Vide Transportation.

Traveller.

Inne-keeper or Alehouse-keeper refusing to lodge a traveller, Justice of Peace or Constable may compel him. *Quære* how, viz. to present the offence at the Assises or Sessions, Dal. 28. Br. *Action sur le case* 76.

Sir James Lee delivered that the Inne-keeper or Alehouse-keeper may for the same be indicted, fined, and imprisoned, or the party grieved might have his action, Dal. 28.

Treason.

Treason is a grievous offence done or committed against the King in his person, the Queen his wife, his Children, Realm, or authority, Dal. 227.

As,

To compass the death of the King, Queen his wife, or of their eldest son and heir; or to intend any of their deaths, though it be not effected, Dal. 227.

Q

To

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sons wife, *Dal.* 228.

To levy war against the King in his realm, *Dal. ib. Br. Treason* 24.

To conspire to levy war against the King, *Dal. ibid.*

To conspire with a Governour of another country to invade the Realm, *Dal. ib.*

To kill one that is sent on the Kings message, *Dal. ib.*

To encounter in fight, and kill such as be assisting to the King in his wars, or come to help the King, *Dal. ib.*

To aid the Kings enemies in his Realm, *Dal.* 228.

To counterfeit the Kings great Seal, Sign-Manual, Privy-signet, or Privy Seal, *Dal.* 229.

To take an old seal and put it to a new patent, *quare* whether treason or misprision, *Dal. ib. Sta. 3. C. Br. Treas. 3.* And so of those that without authority set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seal, and so get it sealed, *Dal. ibid.*

To counterfeit the Kings coin, or any coin current within the Realm, *Dal.* 229.

To bring in any false mony, knowing it to be false, *Dal.* 229. 1 & 2 P. & M. c. 3.

“ To clip, wash, and lighten or falsifie any coin current within the Realm, *Dal. ib.*

“ To coin mony not having authority, *Dal. ibid.*

If he which hath the Kings warrant to coin, doth

doth coin money in England, Ireland, or elsewhere less in weight then the ordinance, or coineth false metal, *Dal. 229. Br. Treas. 19.*

All counsellors, procurers, consenters, or aiders of any the forenamed Treasons, are within the purview of the Statute 25 Ed. 3. for in treasons all offenders are principal, *Dal. 230.*

Counterfeiting gold or silver not the proper coin of this Realm, is misprision of treason, 14 El. c. 3.

To kill the Kings Chancellour, Treasurer, Justice in Eyre, of Assise, of Oyer and Terminer, being in his place, and doing his office, is high treason, *Dal. 230.*

To extol the authority of the Bishop of Rome within any of the Kings dominions, and the procurers, counsellors, aiders and maintainers thereof, the first offence is *Præmunire*, the second Treason, 1 El. c. 1. 5 El. c. 1. *Lam. 411. Dal. 231.*

So to bring over any books that shall maintain, set forth or defend such authority, and the readers and hearers that shall justify them, *Dal. 231.*

So deliverers of such books to others, with allowance and liking of the same, *Dal. ibid.*

So the printers and utterers of such books be all within the meaning of the statute 5 El. c. 11. *Dal. ibid.*

Refusing the oath of Supremacy, the first offence is *Præmunire*, the second offence Treason, 5 El. c. 11. *Dal. 205. Lam. 410.*

To obtain from Rome, or by any authority from thence, any Bull or writing to absolve and reconcile such as will forsake their

obedience to the King, and yield it to the Pope, or give or take absolution by colour of such Bull, or publish or put in ure such Bull, 13 *El. c.2. Dal.231. Lam.226.*

To absolve, perswade, or withdraw any subject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsel, or aid them that doe it, is treason, 23 *El. c.1. 3 Jac. c.4. Lam.220, 226, 412. Dal.232.*

To be willingly absolved, perswaded, withdrawn, or reconciled to promise such obedience, or to procure, counsel, aid and maintain the same, is treason, except within six daies after their return into the Realm they submit according to the statute, 3 *Jac. cap.4. Dal. ibid.*

For Jesuit, Priest, or other Ecclesiastical person (made by authority from the Pope) to come into, or remain in any of the Kings dominions, contrary to the statute 27 *El. c.2.* is Treason.

To compass the death of an usurper of the Crown, is Treason, for which the offender may be arraigned in another Kings time, *Br. Treason 10. Dal.227.*

To intend to deprive, depose, or dis-inherit the King, or say he will be King after the King dieth, *Dal.227.*

To set at large unlawfully any committed for Treason, is Treason by the Common law, *Dal.219.*

One imprioued for felony breaketh prison,

son, whereby a traitor escapeth; it is Treason in him by the Common law, *Dal.* 229. *Cro* 35.a. nu. 5.

Voluntarily to suffer one to escape that is committed, or onely under arrest for Treason, is Treason by the Common law, *Stam.* 32. *Dal.* 229.

Forfeiture in case of Treason is of lands and goods to the King, and at this day by 26 H.8. ca. 13. 5 Ed.6. ca. 11. his lands entailed, and his wife her dower, saving in certain cases, *Dal.* 234.

Judgement and condemnation of a woman in case of Treason, is to be drawn on a hurdle to execution, and burned, *Stam.* 182. *Dal.* 234.

Treasurer.

" Treasurer for relief of Gaols is to be chosen at Easter Q. Sessions by the more part of the Justices of Peace, to be of 5 l. in lands or 10 l. in goods in the last subsidy, to continue but for one year, and then to give up his account at Easter Sessions to his successor, 43 *El.* c. 2.

" The elected refusing the office, or to give relief or accompt, is to be fined by the Justices in Sessions, or by the Justices of Assizes by discretion, but not under 3 l. 43 *El.* c. 2.

" Treasurer for Gaols is to pay over to the Lord chief Justice and to the Knight Marshal quarterly such summes as the Justices of Peace do appoint, 43 *El.* c. 2.

" Treasurer for maimed souldiers is to be

Q 3 elected

" elected by the more part of the Justices at
 " Easter-Sessions, and (not being a Justice of
 " Peace) to be 10 l. in lands or 15 l. in goods
 " in the last Subsidy, to continue but one year,
 " and for refusing the office, or misdemeanors,
 " &c. to be fined by the more part of the Ju-
 " stices, but not under 5 l. 43 *El.c.3.* and to
 " give up his accompt to his successor within
 " ten daies after the Sessions.

" The Churchwardens are ten daies before
 " every Qu. Sessions to pay over to the High-
 " Constables the taxation for Gaols, 43 *El.c.2.*
 " And the Churchwardens and pety-Con-
 " stable at the same time to pay to the High-
 " Constable the taxe for maimed souldiers,
 " 43 *El.c.3.* And the High-Constables are to
 " pay the same to the Treasurers at the next
 " Q. Sessions, 43 *El.c.2 & 3.*

" If default of payment be made by the High-
 " Constable, he doth incurre the penalties, viz.
 " of 20 s. a time for the Gaol-money, 43 *El.*
 " c.2. and of 40 s. for souldiers money, c. 3.
 " And if default be in the Churchwardens, for
 " Gaol-money 10 s. a time; if for souldi-
 " ers money, the Churchwardens and pety-
 " Constables lose 20 s. a time, 43 *El.c.2 & 3.*
 " The said forfeitures to be levied by the
 " Treasurer by distress and sale of the offenders
 " goods, and taken in augmentation of the
 " stock.

Trespas, *vide* Hedge-breakers.

Trial.

As well Noblemen as Gentlemen in cases
of

of Felony or Treason, or misprision of Treason, are to be tried by their equals, *Lam. 539.*

In Riots, Routs, unlawful assemblies and forcible entries, Nobility shall be tried by common Jurours, *Lam. 539.*

All Forain Pleas triable by Jury, and pleaded by any indicted of Treason, Murder or Felony, shall be tried in the County where the party is arraigned, and by Jurours of that County, 22 *H. 1. c. 14.* 32 *H. 8. c. 3.* *Lam. 552.*

Aliens indicted of Felony or Murder, must be tried *per medietatem linguae*, *Lam. 554.*

Peer of the Realm indicted of Treasons upon the statute of 3 *Fac. c. 4.* is to be tried by his Peers, 3 *Fac. c. 4.*

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realm, shall be enquired and tried within the Realm, 35 *H. 8. c. 2.* *Dal. 235. Co. Inst. 261. b.*

"He who is no Lord of the Parliament, being arraigned for Treason or Felony, shall be tried by Knights and others, and not by Lords of the Parliament. So shall Bishops by reason that they are Lords of the Parliament by their office, and not in respect of their Nobility, *Cro. 110. b. nu. 6.* *Stamf. 153. a.*

Turn of the Sheriff.

Indictment at the Sheriffs Turn to be certified to the Justices at the Qu. Sessions. *Vide Certificate.*

Sheriffs Turn to be holden within a month after Easter, or within the month after

after Michaelmas, *Lamb.* 504.

Estreats of the Justices of Peace of Fines assessed upon presentments in the Turn being inrolled and indented, are to be levied by the Sheriff to the use of him that was Sheriff at the time of presentment, 1 *Ed.* 3. c. 7. *Lamb.* 585.

V Agabonds, *vide* Rogues.

Venire facias.

Justices of Peace may award a *Venire facias* against the enditour, to amend a Bill upon the first oath, *Lam.* 507. 8 *H.* 5. c. 8. *Stam.* 97.

Justices of Peace cannot award a *Venire facias tot matronas*, to know whether a felon be with child or no, *Lam.* 551.

Verdict.

“ The Jury in case of felony may give a
 “ special verdict, if they will, and the Court,
 “ upon examination of the matter, may ad-
 “ judge contrary to the verdict. As, The Ju-
 “ ry found that *A.* killed *B.* *se defendendo*, and
 “ upon examination of the matter, the Court
 “ adjudged it to be man-slaughter against the
 “ verdict, *Cro.* 114. 2. *nu.* 1.

“ Though the Indictment specify the
 “ goods to be above 12 d. yet the Jury may
 “ say that the goods were worth but 8 d.
 “ upon which verdict it shall be taken as
 pety

"perjury-larceny, *Cro. 114. a. nu. 2.*

"A man is arraigned of murder, and by the
"Jury it is found but man-slaughter, it is good,

"*Cro. 114. a. nu. 3.*

Vessels.

Vessels of ale and beer are to be made of
seasoned wood, with the mark of him that sea-
led it, *Lam. 460.*

Every barrel for beer and every barrel for
ale, and so every lesser vessel, by 32 H. 8. cap. 4.
ought to contain under pain of 3 shill. 4 pence
for each default,

Beer	{	Barrel 36.	{	Ale	{	32	{	Gallons.
		Kilderkin 18.				16		
		Ferkin 9.				8		

But now by the statute 1 Jac. c. 9. ale and
beer shall be sold by retail by one and the same
measure, namely by the ale-quart, *Cro. 94. b.*
Dal. 152.

Vide Assise of Bread and Beer.

Wine	{	Tun	252.	{	Gallons.		
		Pipe	126.				
Oil	{	Hogshead	63.			{	Dal. 162.
		Barrel	32 and half				
Hony	{	Rundlet	16 and half				

But *Crompton 94. b.* saith, *Popham* chief Ju-
stice saith that the measure of wine and ale
should be all one, and that so it was agreed by
the Justices according to the standard of
the Exchequer. But note, saith *Crompton*
there, that the ale-quart is greater, for that
the froth of the ale amounts a little, and
wine doth not froth, and therefore there

should be a nick in the top of the wooden kan, where the measure should be, to which nick the ale should come, *Cro.94.b.* And so Master *Wallis* Clark of the Qu. marker told him, January 25. 1588.

Herring the barrel, half-barrel, firkin, shall be of the same content that ale is, namely the barrel 42 Gallons, &c. 13 *El.6.11.* 11 *H.7.6.23.* *Dal.153.*

Sope and Butter shall be of the same content with ale, and the empty barrel not to be in weight above 26 pound, and for the other vessels in proportion, 23 *H.8.6.4.* *Dal.151.* *Lam.461.* The penalty is 3 shill. 4 pence for each one.

Victuals and Victuallers.

If Butcher, Fishmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other seller of victual do sell at unreasonable rates, and not for moderate gain, they lose double value, *Lam.454.* 23 *E.3.c.6.* & 13 *R.2.c.8.*

Brewer selling drink at higher prices than have been appointed by the Justices of Peace, loseth after the rate of 6 shill. a barrel, 23 *H.8.6.4.* *Lam.455.*

Conspiracy or oath taken, or promise made by Butchers, Bakers, Brewers, Poulterers, Cooks, Fruiterers, or any mystery, or any of them, not to sell but at prices agreed between them, the first offence 10 pound, or 20 daies imprisonment; the second, 20 pound, or Pillory; the third, 40 pound, or lose an ear, 2 *Ed.6.c.15.* *Lam.455.*

Viſtuals and Viſtuallers. 347

To ſell ſwines fleſh mezelled, or fleſh that died of the murrain, or other corrupt viſtual, *Stat. de piſtoribus, cap. 7. 51 H. 3. Lam. 455.* is fineable.

Any, except viſtuallers in their houſes, buying to ſell again by retail butter or cheeſe, unleſs it be in open Fair or Market, loſeth double value, *3 Ed. 6. cap. 21. 14 Eliſ. cap. 11. 27 Eliſ. cap. 11. Lam. 456. 1 Jac. cap. 25.*

Proceſs upon the ſtatute of *23 H. 6. cap. 13.* againſt viſtuallers is Attachment, *Capias*, and Exigent.

Brewer, or other ſelling of ale or beer unto any unlicensed Alehouſe-keeper, other then for neceſſary proviſion for his own houſhold, loſeth after the rate of fix ſhillings eight pence a barrel, one moiety to the poor, the other to the informer, to be heard and determined at the Quarter Sessions, *4 Jac. c. 4. Lam. 460.*

The officer levying the penalty of *4 Jac. cap. 4.* and not delivering the moiety to the Churchwarden or Overſeers of the poor, or not diſtributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty, *4 Jac. c. 4.*

Viſtualler is within the ſtatute *1 Jac. cap. 9. 4 Jac. c. 5. 1 Car. c. 4.*

Vide Transportation, Alehouſes, Tipling.

Under-ſheriff.

Cuſtos Rotulorum, or two Juſtices of the Peace.

Peace, one to be Quorum, may give unto Undersheriffs before they exercise their office, the oaths of 1 *Eli.* of Supremacy, and 27 *Eli.* c. 12. touching their office; so of their Deputies and Clerks, or any other meddling with returning of writs, or execution of process into any Court of record. So of Bailiffs, any of them executing their office before such oaths taken, lose 40 pound, 27 *El. ca. 12. Lam.* 356; 432, 433.

Undersheriff or his Clark or deputy doing any thing against their oath, lose treble damages to the party, *Lam.* 433.

Unlawful games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cails, tennis, casting the stone, football, or other unlawful game now invented, and hereafter to be invented, shall be suspected to be used, and may arrest the keeper of every such place, and may imprison them until they finde sureties by recognizance no longer to use such house, game, play, alley or place, 33 *H. 8. c. 9. Lam.* 191. *Dal.* 64. *Cro.* 79. a. 131. a. 196. a. 197. b. *Lam.* 349, 479.

Justice of Peace may arrest and imprison such players till they be bound no more to play at such game, *Lam.* 192. *Cro.* 172. a. b. *Lam.* 349, 479. *Dal.* 63.

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman, or servingman,
other.

Unlawful games. 349

other then of a Nobleman, or of him that may dispend 100 l. by the year, playing within the precinct of his masters house, shall not play out of Christmas at any unlawful game, or in Christmas out of the house or presence of his master, 33 H.8.c.9. Lam. 479. 20 shill. every time. *Quare* if other games besides those prohibited 33 H.8.c.9. be unlawful, as the morrice and other open dances, bear-baitings, common-plaies, and fencings, which seem to be prohibited by 39 El.ca. 4. Dal.63. 1 Car. c.1.

All offences against the statute of unlawful games may be heard and determined at the Qu. Sessions, A. S. s. or Leet within which they shall happen, Lam. 614. *Vide plus* Sunday.

Unlawful Assemblies.

An unlawful assembly is of the company of three or more persons disorderly coming together, forcibly to commit an unlawful act, as to beat a man, or enter upon his possession, or the like, Lam. 175. Dal. 221. P.R. 25. Cro. 61.a. nu. 3.

First, an unlawful assembly it is, onely to meet to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of such act, whether it be done or no, is a Rout. Thirdly, to execute such a thing, is a Riot, Dal. *ibid.* Lam. 175, 176. Cro. 61.a. nu. 3.

In an unlawful assembly, Rout or Riot,
two.

350 Unlawful assemblies.

two things are common, and must concur: first, that three persons at least be gathered together; secondly, that their being together breed some apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actual and express violence to affright peaceable men, or imbolden light and busie bodies by their examples, *Lam.* 176, 177.

There be three degrees of seditious and riotous assemblies: the first from three to twelve; the second of twelve or more; the third of forty and upward, *Lam.* 183. 1 *El. c.* 17. Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance, *Lam.* 184.

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24 hours after reveal the same, *Lam. ibid.*

Vide Forcible Entry, Riots.

Usury.

Corruply to contract for more then 8 pound in the hundred, for forbearance for one year, loseth treble value of the monies, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted, 21 *Jac. cap.* 17.

Scriveners taking above five shillings for procuring 100 pound, and for a bond above 12 pence, forfeit 20 pound, *ib.*

Utlawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Justice or in affray of the people, being indicted thereof, if they be not brought in by attachment or distress (for insufficiency) are to be outlawed, *8 Ed. 3. c. 5. Lam. 522.*

After Utlawry the Justices of P. can award no process, but must certifie the Utlawry into the Kings Bench, *Lam. 521, 522.*

One outlawed of felony before Justices of Peace doth appear, and saith he was in the Kings service beyond sea under such a Captain, or in prison in such a County; the Justices cannot write to the Captain or County, *Lam. 552.*

Wages.

Rates of wages of servants and labourers are to be made by the Justices of Peace at Easter Qu. Sessions, and by them to be ingrossed in parchment under their hands and seals, and after it shall be lawful for the Sheriff of the said County to cause proclamation to be made of the several rates so rated in so many places of their several authorities as to them shall seem convenient, and as if the same had been set down printed by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majesty, and certificate thereof into the Chancery, *39 El. c. 12. 1 Jac. c. 6.*

Any giving wages contrary to the rates, appoin-

appointed and proclaimed, loseth 5 pound,
 5 *El.c.4.* 1 *Fac.c.6.* *Lam.474.*

Every Justice of Peace (not having lawful excuse testified by oath of one that is in subsidy 5 pound, &c.) that shall not assemble at Easter Sessions, or within 6 weeks after, to rate the wages of servants, &c. shall lose 10 pound,
 5 *Eli2.c.4.* *Lam.632.*

Any having authority by 5 *Eli2.c.4.* to rate wages, may rate the wages of labourers, weavers, spinsters, and of any working by day, week, moneth or year, or by great, 1 *Fac.c.6.*

No penalty for not certifying the rates of wages into the Chancery, according to the statute of 5 *El.c.4.* if they be duly proclaimed,
 1 *Fac.c.6.*

Rates of wages ingrossed in parchment are to be kept by the *Custos Rotulorum*; if in a Corporation, amongst the records thereof,
 1 *Fac.c.6.*

Any two Justices of Peace may imprison without bail the master for ten daies, for giving, and the servant, workman or labourer for 21 daies, for taking greater wages then are assised by the Justices of Peace, and Proclamation thereof made in that county, 5 *El.c.4.* *Dal.80.* Every retainer, promise or paiment of wages, or other thing whatsoever, contrary to the true meaning of 5 *El.c.4.* and every writing and bond for that purpose is utterly void,
Dal.80.

Justice of Peace may have his action of debt against the Sheriff for his wages at the Sessions, *Cro.177.3.* *nu.23.*

Wages.

353

Justices of Peace shall be paid their wages out of the fines and amerciaments of the same Sessions, and they ought to assess the fines in the Court, and then the Clark shall indent the estreats betwixt the Justices and the Sheriff, and the Justices shall put their names thereto, to the end the Sheriff may know to whom to pay wages, and levy the same to pay to the Justices, whereupon the Sheriff shall be allowed the same upon his accompt in the Exchequer, 14 R. 2. c. 11. *Lam.* 628. *Cro.* 177. 1. *nu.* 30.

Wain'ings.

Any killing any Wainling Calves under two years old to sell, lose 6 shil. 8 pence for every offence determinable at the Quarter Sessions, 24 H. 8. cap. 9. 1 *Fac.* cap. 25. *Lamb.* 453, 607.

Wait-laying.

Lying in wait to maim or kill any other, is to be fined, *Lam.* 446.

Warrants.

The Justice of Peace his command by word of mouth is in some cases as strong as his precept in writing, *Dal.* 336.

As,

A Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to find sureties for their good behaviour, *Dal.* 336.

So

So upon affray, assault, threatening or any other breach of the Peace done in his presence, he may command the officer being present to arrest such offenders to find surety for the peace, *Dal.* 336.

But for causes out of his presence one may not arrest another upon the Justices command, but by precept in writing, *Dal. ib. Br. Peace* 7.

A warrant in writing must be under the Justices hand and seal, or under his hand at least, *Dal.* 336. *Lam.* 85, 88. But it is better if under seal, *Dal.* 337.

A warrant for the peace or good behaviour must contain the special matter, *Dalton* 336. *Lam.* 87. but it is better under his seal, *Dalton* 337.

A warrant for treason, murder or felony, or other capital offence and such like, need not contain the special cause, *Cro.* 148. a. *Dal.* 337.

A warrant is better if it contain and bear the date at the place where it is made, the year and day when it was made, *Cro.* 174. a. *Dal. ib. Lam.* 88.

Justice of Peace being out of the County, granteth his warrant to be served in the County; the officer must carry the party before some Justice of Peace within the County, *Dal. ibid. Lam.* 91.

“ The County written in the margent of
“ the warrant, albeit it be not expressed in the
“ warrant, and in *Com. prædicto*, shall have relation to the County set in the margent, *Cro.*
“ 102 b. *nu.* 29.

Justice of Peace may make his warrant to
come

come before himself: yet upon a warrant for the Peace the usual manner is otherwise, *Co. 5. 19. Dal. 170, & 338.*

In some cases a Justice of Peace may grant his warrant to attach the offender to be at the next Sessions of the Peace, to answer his said offence, *Dal. 338.*

"Justice of Peace may grant his warrant against one that hath broken the peace, or committed misdemeanors against the peace, to finde sureties for the peace, or behaviour, *Dal. 34, 162, 165, 338.*

Justices of Peace in divers cases (as the case shall require) may grant their warrant for the parties neglect, or other default: and such warrant may be either to attach him to be at the next Sessions, there to answer, &c. or to bring the offender before the said Justices, or any other Justice, &c. who finding cause to bind him, may bind him to the next Sessions to answer the said default. *Vide Dal. 338, & 160.*

Where the statute giveth authority to Justices of Peace to cause another to doe a thing, they have power of congruity to grant their warrant to bring such persons before them, that so they may take order therein, *Quare Dal. 338.*

A Justice of Peace maketh a warrant beyond his authority, it is not disputable by Constable or other inferiour officer, but must be obeyed, *Lam. 65. Dal. 8, 242, 342.*

But if the Justice make a warrant to doe a thing out of his jurisdiction, or in a cause wherein he is not a Judge; if the officer execute the

the warrant, he is punishable, *Dal.* 342. *Cro.* 147.b. *Dal.* 8. *Lam.* 91, 92.

Warrant for the Peace may be directed to any indifferent person by name, though he be not officer: yet it is better to a known officer, *Dal.* 340. *Cro.* 147.a. *Lam.* 88.

A sworn and known Officer need not to shew his warrant; but the servant of the Justice must shew it if it be required, *Dal.* *ibid.* *Lam.* 89. *Cro.* 148.a.

A warrant directed to the Constable and to a stranger jointly and severally, and executed solely by the stranger, is good, *Cro.* 147.b. *Dal.* 340.

Warrant directed to two jointly to arrest another, may be executed by one of them, *Dal.* 340. *Lam.* 89.

“A Just. of P. may make his warrant to the Sheriff to attach one to bring him to the Sessions to finde surety of the Peace, *Cro.* 136.a.

A warrant being directed by a Justice of Peace to the Sheriff, he may by word command any sworn or known officer under him without precept in writing, *Dal.* 340. *Lam.* 89.

If a Justice of Peace his warrant be directed to the Sheriffs, Bailiff, Constable, Justices servant, or other to arrest one, such person must serve it himself, *Lam.* 89. *Dal.* 340.

He to whom any warrant shall be directed, must do it with all secrecy and speed, *Dal.* *ibid.*

A known officer must, if he will not shew his warrant upon arrest, declare the con-

contents of his warrant, *Co. 6. 54. & 9. 68.*
Dal. 341.

Upon arrest in the Kings name, the party arrested ought to obey, *Dal. ibid.* for if he have not lawful warrant, the party grieved may have his action of false imprisonment, *Dal. ibid. Co. 9. 68.*

An officer arresting a man doth afterwards procure a warrant ; this is a wrongful arrest, *Dal. 341. Lam. 90. 91.*

The officer having a warrant for the peace, or good abearing, may break open the doors, *Dal. 341. Cro. 170. b.*

One is arrested, who upon promise to come again is let go, and cometh not again ; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit, *Dal. ibid. Br. Faux impris. 18.*

An officer having a lawful warrant to arrest another, is resisted or assaulted by the party or any other person ; the Officer may justify the beating or hurting such person, *Dal. 341. Lam. 92.*

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, he shall be indicted and fined ; for it is the Kings process, *Dal. 342. Cro. 149.* *Quære*, whether he shall not be bound to his good behaviour, *Dal. ibid.*

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to bind him to give evidence at the next Gaol-delivery, *Dal. 342.*

Justice

“ Justice of Peace is not to grant his warrant against an offender of a penal statute to appear at the Sessions, unless it be appointed by statute, but he ought first to be indicted, *Lam.* 187. *Dal.* 339. *Cro.* 197. a. nu. 21.

“ Justice of Peace cannot make a warrant to arrest a felon except he be indicted, *Cro.* 147. b. But *Dalton* argueth that a Justice of Peace may make such a warrant, *Vide Dal.* 339.

“ One wrote to a Justice of Peace to send him a Warrant with a blank, to insert therein one whom he would attach for suspicion of felony. The Justice did so: And for that he sent his Warrant with a blank, to put in a name which he knew not, nor the matter, before the making of the Warrant, he was fined in the Starre-chamber, *Cro. Jurisd.* 34. a.

“ All Warrants made in the Kings name, ought to be directed To all Ministers as well within liberties as without, *Dal.* 355.

“ Warrants may be made either 1. in the name of the King; or 2. in the name of the Justice; and either of them must be testified by the Justice from whom they issue; or 3. without style by the subscription of the Justice, *Dal.* 335.

To what Officers Warrants are to be directed by particular Statutes.

“ To the Churchwardens, for negligence comers

Warrants. 359

" comers to Church, to levy 12 d. 3 *Fac. c. 4.*

" To the Constable or Churchwardens

" against an Alehouse-keeper, to levy 10 s.

" for suffering tipling, 1 *Fac. c. 9.*

" To levy 20 shill. for breaking the Assise,

" 1 *Fac. c. 9.*

" For selling Ale without licence, 20 shill.

" 3 *Car. cap. 4.*

" For tipling in an Alehouse, 3 shill. four

" pence, 1 *Fac. c. 9.*

" For abuses on the Lords day, 1 *Car. c. 2.*

" For Carriers on the Lords day, 20 shill.

" 3 *Car. c. 1.*

" Shewing boots to sell on Sunday, 3 shill.

" 4 pence, 1 *Fac. c. 22.*

" To the Constables, Churchwardens, or

" Overseers of the poor for swearing, 12 d.

" 21 *Fac. cap. 20.*

" To the Constable or other inferiour of-

" ficer for drunkenness, 5 shill. 4 *Fac. cap. 5.*

" 21 *Fac. c. 7.*

Warreners, *vide* Foresters.

Watches.

Any Justice of Peace may cause night-watches to be kept for the arresting of night-walkers and persons suspect, be they strangers or others of evil fame, *Dal. 144. 13 E. 1. Stat. Winton. c. 4.*

Watch is to be kept yearly from Ascension day till Michaelmas in every town, from sun-setting to sun-rising, *Dal. 144. Lam. 440.*

All strangers or persons suspected passing by

by the watching men, may be examined by them; and if there be cause of suspicion, they may stay them, and if they will not obey, may levy hue and cry, and may justifie to beat them, and may stock them till morning, and if they find no cause of suspicion, deliver them; but if they find cause, may deliver them to the Constable, to carry them before a Justice of Peace, *Dal.* 144. 300.

Any Justice of Peace may cause all night-walkers, strangers or other suspected, especially such as sleep in the day and walk in the night, to be arrested, and such as in the night haunt any house suspected of bawdery, or use suspicious company, or commit other outrages or misdemeanours, and cause them to find sureties for their good behaviour, *Dal.* 88. *Lam.* 118, 119.

No man is compelled to watch unless he be an inhabitant in the town, *Dal.* 145.

“Inhabitants are not compellable to watch
“at the will of the Constable, but when his
“turn cometh, *Dal.* *ibid.*

Water-men.

Every Justice of Peace within the shire next adjoining to the river of Thames within his jurisdiction, hath power upon complaint by the overseers or rulers of the Water-men and Wherry-men, or two of them, or by the masters of any such servants, both to examine, hear and determine all offences against the statute, and set at large him that shall be imprisoned by the overseers and rulers,

Watermen.

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rulers, if there be just cause, and also by his discretion to punish those overseers and rulers, that shall unjustly punish any person, 2 & 3 Ph. & Mar. cap. 16. Lam. 203. Dal. 145.

The offences against the Statute are,

1. No single man shall be a Waterman, 1 Jac. c. 16.

2. One of the two rowing in one Boat must be allowed by eight of the overseers by writing under seal.

3. They shall not hide themselves in time of pressing for the Kings service.

4. They shall not take for their fare above the price assessed, and set up in Tables in *Westminster-Hall*. Dal. saith, *quare* whether the Justices of Peace be to meddle with this.

Wax.

One Justice of Peace may examine and search by his discretion such as doe sell any candles, or work of wax above four pence in the pound clear gain over the price of the Wax, and punish them by forfeiture of that which is to be sold, and the value of that which is sold, and fine to the King, Dal. 145. Lam. 196. 469. 11 H. 6. c. 12.

Weapons which be forcible,
Vide Forcible Entry.

R

Weers.

Weers in rivers may be surveyed by one Justice of Peace, which he may cause to be made of a reasonable wideness, *Lam.* 289.

Any making Weers within five miles of the mouth of any haven or creek, or by weers destroying any fry of fish of the sea, loseth 10 pound, one moiety to the King, the other to the informer, 3 *Stat. cap.* 12. *Dal.* 56. explaineth the particulars of that Stat. of 3 *Stat.* 6. 12.

Weights and Measures.

Faults of the officers of Cities and Boroughs in not viewing and examining weights and measures twice a year, to be heard and determined by examination and enquiry of two Justices of Peace, one being of the Quorum, and by them to be fined and amerced; and so of faults of buyers and sellers by other weights and measures then they ought to doe, 12 *H.7. c.4.* 12 *H.7. c.5.* *Lam.* 356. *Dal.* 246.

Two Justices of the Peace (one of the Quorum) may break and burn such measures as they finde defective, and fine the offenders by their discretion, and make process against them as in trespass, 12 *H.7. c.5.* *Lam.* 356. *Dal.* 146. 11 *H.7. c.4.*

Mayors of Towns taking above a penny for sealing a bushel or other measure, or for weights above a penny for an hundred, an half-penny for half an hundred, a farthing for

Weights and Measures. 363

for a less weight, lose 40 s. 11 H.7.c.4. Lam. 437. Dal.155. 7 H.7. c.3.

Buying and selling by unlawful weights or measures, or in any City or Market, with any Weights or Measures that are not lawfully marked or signed, he loseth for the first offence 6 shillings 8 pence, for the second offence 13 shillings 4 pence, and for the third 20 shillings and Pillory, 11 H.7.ca.4. Lam. 460.

To buy corn by heaped measure, except on shipboard, or to use double measure, the one to buy, the other to sell with, the first offence is 6 shillings 8 pence, the second 13 shillings 4 pence, the third 20 shillings and Pillory, 11 H.7.c.4. Lam. 460. 15 R.2.c.4. Stat. de Pistoribus c.8.

Those of the Town where the Kings Standard is appointed to remain, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced, 11 H.7. c.4. Lam. 460. Dal.155. Vide plus Vessels.

Witchcraft.

Invocation, Conjuraton, consultation, covenant, entertainment, imploiment, feeding or rewarding any evil spirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charms, or using any manner of Witchcraft whereby any person shall be killed, or any part of them wasted

or lamed, and also the accessories, is felony without Clergy, 1 *Fac. c. 12. Lam. 415. Dal. 280.*

By Witchcraft or Charms to finde out hidden treasures, to tell where lost goods shall be found, to provoke unlawful love, to destroy or hurt any mans body, or to attempt any of them, the first offence is one years imprisonment without bail, and to stand in the Pillory six hours every quarter of the same year, and confess his offence; the second is felony without Clergy, 1 *Fac. c. 12. Lam. 415.*

Trial of Noblemen upon the Statute of 2 *Fac. c. 12.* of Witchcraft, is to be by his Peers, *Lam. 415.*

Attainder upon the Statute 1 *Fac. cap. 12.* of Witchcraft, neither loss of Dower, nor corruption of Blood, 1 *Fac. c. 12. Lam. ibid.*

Wines.

Wines brought in strange bottomes from *France* into any part of *England*, except the Ile of *Man*, and *Wales*, forfeit the Wines, 27 *El. c. 12. Lam. 457.*

Any licenced to retail wine, selling above the prices limited by Proclamation, lose 3 s. 4 d. for every Gallon, 27 *El. c. 11. Lam. 458. 5 El. cap. 5.*

Any under a Barons son, or under 100 marks a year, or 1000 marks in goods, keeping to spend in his house any vessels of *Gascogne* wine, *French* or *Rochel* wine, above ten gallons, loseth 10 pounds, 7 *E. 6. ca. 5. Lam. 458.*

Woad.

Woad brought from *France* into any part of *England*, except the *Ile of Man* and *Wales* in a strange bottome, forfeiteth the Woad, 27 *El.* c.11. *Lam.* 457, 458.

Wood.

Upon complaint of the Lord, and disagreement of the Lord and his Commoners, the fourth part of the Lords wood may be set forth by two Justices, appointed by the greatest part of the Justices at their Sessions, and not being of kindred or alliance, or fee to the Lord, 35 *H.* 8. c.17. 13 *El.* c.25. *Lam.* 359.

Just. in Qu. Sessions may call before them the owner of the wood, and 12 of the Commoners to set out the fourth part, *Lam.* 609.

Ingrosser or Regrater of Bark, forfeiteth the Bark, 1 *Jac.* 22. *Lam.* 452.

Any selling of Oaks meet to be barked, before *April*, or after *June*, except for necessary building, as repairing of houses, ships, mills, lose the Oak, or double value, 1 *Jac.* c.22.

Purveyours taking Timber for the repair of the Kings ships or houses, the owner may retain all the Barks lop and top, and the Purveyor taking them, loseth for every tree 40 shillings to the party grieved, 1 *Jac.* 22. *Lam.* 438.

Wooll and Wooll-seller.

Buyer of Wooll of any other then the owner of the sheep or tithe, lose the value, 14 *R.* 2. c.4. *Lam.* 452.

Buyer of Woollen-yarn, and not making it into cloth, loseth the value thereof, 8 H.6.5.

Lam.452.

Any sorter, carder, kember, spinster or weaver, receiving wooll and yarn of any clothier or maker of stuff, and embezelling, selling, or detaining the same, and the Receiver or buyer knowing thereof, upon conviction, by confession or oath of one witness before two Justices of Peace, is to make such recompence to the party, as the Just. shall appoint: and the offender being unable, and refusing to doe it, is to whipt or stocked, 7 Jac.7. cap.7.

Women.

Women arraigned for felony, may only for one time have the benefit of their belly, Lam.563.

Just. of Peace cannot award a *Venire facias* tot matronas, to know whether a Woman felon be with child, Lam.551.

Taking away a woman against her will, that hath land, &c. or is heir apparent, not claiming her as ward, and after marry or deflower her, is felony without Clergy. So of the procurers, abettors, and receivers knowing thereof, 3 H.7.c.2. Lam.421.

A woman being delivered of a Bastard-child, and born alive, that endeavoureth privately by drowning, secret burning, or other way by her self, or procuring of others

to conceal the death thereof, as that it may not come to light whether it were born alive or dead, shall suffer as in murder, except she can prove by one witness that the child was born dead, 21 *Fac.* 27.

Women convicted of felonious taking above 12 d. and under 10 s. being not Burglary or Robbery in or near any high-way, nor taking of money, goods, or chattels from the person of any, privily or as accessory to any such offence, wherein a man may have his Clergy, shall for the first offence be burned in the hand and further imprisoned, whipped, and stocked, or sent to the house of Correction (not above a year) as the Justices before whom the conviction is, shall think meet, 21 *Fac.* 6. *Dal.* 272, 273.

Wife and her husband are bound to appear at the Sessions, and in the mean time to keep the peace. The husband only appearing, the Recognizance is not forfeited, *Dal.* 179. *Quareiamen.* *Cro.* 144.b.

Resolutions of the Judges of *Affises*, 1633.

1. *Question.*

WHether the Churchwardens and Overseers of the poor of a Parish with assent of two Justices of the Peace, one being of the Quorum, may by the Statute of 43 *Eliz. cap. 2.* or any Law enforce a Parishioner of the same Parish, to take a child of a poor Parishioner of the same Parish, who is not able to keep his said child, to be an apprentice ?

Resol. The Statute of 43 of *Elizabeth*, which saith, that the Churchwardens and Overseers of the Parish shall put out children to be apprentices, necessarily implieth, that such as are fit must receive Apprentices, and the putting out of poor children to be Apprentices is one of the best ways for the providing for the poor.

2 Q. If they may, then whether they must not give money with him, and who shall determine what money shall be given with him, if the party that is to take such an Apprentice, and the Churchwardens, and Overseers cannot agree thereupon ?

Resol. There is no necessity that money must be given, but that must be left to the discretion of the Churchwardens and Overseers, all circumstances of age and ability being considered, and if they cannot agree with the party, then the Justices of Peace near adjoining : or in their default the Sessions of Peace are to determine these Controversies.

3 Q. Whe-

3 Q. Whether a Knight, Gentleman, Clergy-man, or Yeoman, or one that is Sojourner, using husbandry, cloathing, or grasing, or the like, may be enforced to take such an Apprentice ?

Resol. Every man who is by calling or profession or manner of living, that entertaineth, and must have the use of other servants of the like quality, must entertain such apprentices, wherein discretion must be given upon due consideration of circumstances.

4 Q. Whether a wealthy man keeping few or no servants, not wanting a servant, but living privately may be enforced to take such an apprentice ; if not, then whether he may be taxed towards the putting forth of such an apprentice ?

Resol. For the receiving of such apprentices, the answer may be referred to the question next before ; but out of doubt every such person must contribute to the charge, as to other charges for the provision for the poor.

5 Q. Whether they may enforce a Parishioner that is of one Parish, to take such a child apprentice, that is of another Parish, but within the same County or division, if the proper Parish be not able to provide for the children of the same Parish ?

Resol. The Justices may provide Masters for them in other Parishes within the same Hundred ; if the same Hundred be not able, then out of that Hundred in the rest of that County, as for other provision for the poor, which must be at a Quarter-Sessions.

6 Q. If such a Parishioner may be enforced

to take such an apprentice, and shall refuse not onely to take such an apprentice, but also refuse to be bound to appear at the next quarter-Sessions, or Assises, what shall be done to him ?

Resol. If any refuse ; let such a one be bound over to the next Sessions or Assises; if he refuse to give such bond, let him be sent to the Gaol, there to remain until he will give such bond.

7 Q. If such a Parishioner who refuseth to take such an apprentice shall be bound over to the Sessions for not taking such an apprentice, and when he appeareth there, shall likewise refuse, what shall be done to him, and what shall be done to the parents who refuse to suffer their children to be put out to be apprentices, themselves not being able to maintain them ?

Resol. If at the Sessions or Assises such a one refuseth to take an apprentice, and his excuse be not allowed, it is fit he be bound to the good behaviour, and it will be a good course to indict such a refuser for a contempt, and thereupon to fine and imprison him, if he refuse to be bound to the good behaviour, let him be imprisoned until he will ; and the Kings books of orders directs that such be bound with good sureties to appear at the Councel-board ; and if the Parents of such poor children refuse to suffer their children to be bound apprentices, or being bound, entice them away, themselves not being able to maintain them, let them be committed to the house of correction.

8 Q. Whether it be in the power of any general quarter-Sessions to mitigate any penalty upon a Statute law ; if the party indicted shall submit himself to the fine of the Court, & wave the traverse ?

Resol.

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Resol. If the party be convicted or confess the fault, it is not in the power of the Court to mitigate the fine, in such cases where the Statute makes it certain : but if the party indicted protesting his innocency, yet *quia noluit plitare cum domino Rege* puts himself up into the grace of the Court, the Court may impose a moderate fine, and order to forbear the prosecution.

9 Q. If any be bound to appear at the Sessions, and shall tender submission to the Court, whether the Sessions may stay the indictment, and mitigate the fine aforesaid upon the confession of the fact ?

Resol. This is answered before to the next precedent Article.

10 Q. If a man be convicted for being drunk, tipling, and keeping an unlicensed Alehouse, or being licensed, for suffering others to remain tipling in his house, or for swearing or driving Cartel upon a Sunday contrary to the Statute in that case provided ; whether the Justice of Peace, before whom he was convicted, or any other Justice of the Peace may discharge him of all or part of the Forfeiture or punishment appointed by the Statute ?

Resol. The Justices have no such power of mitigation after conviction, where the Statute appoints the measure of the punishment.

11 Q. Whether a Constable may upon a warrant for carrying one to the house of Correction for keeping an unlicensed Alehouse upon the second conviction break open the house wherein the party convicted is, to apprehend him ?

Resol. This question is to be advised upon,
it

it is put in general terms and referred to be considered in the particular where it appeareth.

12 Q. If a woman unmarried be hired from week to week, or from half year to half year, in one Parish, and there be gotten with child, and then goeth from thence unto another Parish, where she is settled in service by the space of two or three months, and then discovered that she is with child; The question is, whether she shall be settled in the Parish where she was begotten with child, or in the Parish where she was last settled?

Resol. The place where such a woman was lawfully settled, is the direction in this case, not where she was begotten with child.

13 Q. If a woman servant unmarried be begotten with child, and then goeth out of her Mistress service, before or after it is discovered that she is with child, and the reputed father be run away, or is not able to free the Parish: whether the Master may be enforced to provide for her till she be delivered, and for a month after?

Resol. If the Master hath legally discharged his house of such a servant, he is no more bound to provide for her then any other.

14 Q. In case a Parish consist part of ancient *Demesn* and part of *Guildable*, an Assise is made for the relief of the maimed Souldiers, the Gaol, &c. according to the stat. of 24 *Eliz. c. 2.* whether the tenants in ancient *Demesn* shall contribute with the *Guildable* for the payment of the Assise?

Resol. The Statute doth not distinguish between the ancient *Demesne* and the *Guildable* in these cases, *ubi lex non distinguit ibi nec nos distinguimus.*

15 Q. Whe-

15 Q. Whether an Indictment of forcible detainer be within the Statute of 1 Jac. ca. 5. and not to be removed by *Certiorari*, unless the party indicted first finde sureties according to that Statute, and whether the party indicted be to be bound in his absence to prosecute according to that Statute, and whether an indictment of forcible entry, &c. found at a private Sessions be to be removed by *Certiorari* without sureties, according to that Statute?

Resol. This is fittest to be left unto the Court of Kings-Bench, to whose Commission, and jurisdiction this is most proper.

16 Q. If one be convicted upon the Statute of 3 Car. R. cap. 13. for driving of Cattel on the Sunday through several Parishes; whether he forfeit 20 shill. to every of the said Parishes; or only to one; if to one, then to which of them?

Resol. This Statute giveth the forfeiture but to one 20 shill. for one Sabbath day. Although the driving of that day be through divers Parishes. Therefore where the action is first attached, and the distress first taken, that Parish shall have the benefit of the forfeiture, & not the other.

17 Q. If one who is under the age of 30 years, and brought up in husbandry, or a maid-servant, or brought up in any of the Arts or trades mentioned in the Statute of 5 Eliz. ca. 4. and not enabled according to that Statute, to live at his or her own hand, shall be warned by two Just. of the Peace to put him or her self in service by a day prescribed by them & shall not doe the same accordingly, but shall after continue living at his or her own hand, what course shall be taken with such a person, and how punished?

Resol.

Resol. Such persons being out of service, and not having visible means of their own, to maintain themselves without their labour, & refusing to serve as an hired servant by the year, may be bound over to the next Sessions or Assises, & to be of the good behaviour in the mean time, or may be sent to the house of Correction.

18 *Q.* Whether the tax for the relief of the poor, upon the Stat. of 43 *Eliz.* shall be made by ability or occupation of lands, or both, or whether the visible ability in the Parish where he lives, or general ability wheresoever, and whether his rent received within the Parish where he lives shall be accounted visible ability, and whether he shall be taxed of them only and for any Rents received from other Parishioners; and what shall be said visible ability?

Resol. The land within each Parish is to be taxed to the charges in the first place equally & indifferently, but there may be an addition for the personal visible ability of the Parishioner within that Parish according to good discretion, wherein if there be any mistaking, the Sessions, &c. or the Justice must judge between them.

19 *Q.* Whether shops, salt-pits, sheds, profits of a Market, &c. be taxable to the poor as well as lands, Cole-mines, &c. expressed in the Statute 43 *Eliz.*

Resol. All things which are real, and a yearly revenue, must be taxed to the poor.

20 *Q.* Whether the tax for the County stock, Gaol, and house of Correction is to be made by the Stat. of 14 *Eliz. cap. 43.* by ability, and upon the inhabitants of the Parish only, or upon them, or the occupiers of lands, dwelling in that Parish:

Parish : or whether such as occupy lands in that Parish, & dwell in another Parish shall be taxed?

Resol. If the Statute in particular cases give no special direction, it is good discretion to go according to the rate of taxation for the poor : but when the Statutes themselves give directions follow that.

21 Q. Whether any taxes ought to be made for the charges that pery-Constables and Borsholders are at in conveying rogues from Parish to Parish, and relieving of them, and how to be rated ?

Resol. It is fit to relieve the Constable and Tithing-men, in such sort as it hath been used in the several places where they live.

22 Q. Whether a Justice of Peace may discharge a servant being with child from her service, allowing that as a reasonable cause that she is thereby made unable to doe the service which otherwise she might have done, and if he may discharge her, whether that Parish shall provide for her till her delivery, if she cannot provide for her self ; and so also if her time be expired before her delivery, who shall provide for her after her time ended ?

Resol. If a woman being with child procure her self to be retained with a master who knoweth nothing thereof, is a good cause to discharge her from his service. And if she be begotten with child during her service, it is all one, but the Master in neither case must turn away such a servant of his own authority. But if her term be ended, or she lawfully discharged, the Master is not bound to provide for her, but it is a misfortune fallen upon the Parish, which they must bear,

bear, as in other cases of casual impotency.

23 Q. Whether being delivered of a bastard child in one Parish, and goeth into another with her child; and becomes vagrant, and so is sent to the place of her birth: her bastard child being under the age of seven years, shall be settled with the mother, and there maintained if the mother be not able, nor the reputed father known, found, or whether it shall be sent to the place of its birth, or being settled with the mother, whether the Parish where it was born shall be ordered by the two next Justices to pay a weekly summe towards the maintenance of it?

Resol. The Bastard child must be placed with the mother, so long as it is within the quality or condition of a Nurse-child, which shall be till seven years of age; and then it is fit to be sent to the place of its birth to be provided for, the mother or reputed father not being able. And the Parish where the child is born shall not be forced to contribute to the charge, as long as the mother lives, and the child be under seven year old.

24 Q. A man with his wife and children takes an house in one Parish, for a year; and before the end of his term is unlawfully put out of possession, and after taketh part of an house as an inmate in another Parish, from whence he is also put out, and then not being able to get any dwelling, they come to lie in a Barn in a third Parish where the husband falleth sick, and the wife is delivered of another child, where ought these to be settled?

Resol. If a man or woman having house or habitation in one Parish be thrust out, this is

an illegal unsettling which the Law forbiddeth, for none must be enforced to turn vagrant, and such one must be returned to the place where he or she was last lawfully settled, and the child also born in the time of this distraction.

25 Q. Whether an apprentice put out by the Churchwardens, &c. according to the Statute, to a Master in another Parish, if his Master die and leave no Executor or Administrator fit to keep an apprentice, or able to place him: He shall be provided for in the Parish where he was apprentice, or shall be sent back to the Parish from whence he was put out?

Resol. Servants and apprentices are by law settled in that Parish, & if they become impotent there, the Parish must abide the adventure after their term or time of service be lawfully ended.

26 Q. What is accounted a lawful settling in a Parish, and what not?

Resol. This is too general a question to receive a perfect answer to every particular case which may happen: but generally this is to be observed, that the law unsettleth none who are lawfully settled; nor permits it to be done by practice, or compulsion, and every one who is settled is a native householder, sojourner, an apprentice or servant for a month at the least, without a just complaint made to remove him or her, shall be held to be settled.

27 Q. A rogue is taken at C. and will not confess the place of his birth; neither doth it appear otherwise but that he confesseth the last place of his habitation to be at S. hereupon he is whipped and sent to S. at his coming to S. the place of his birth is there known by
some

some to be at *W.* and thereupon the rogue confesseth it to be so : whether he might without any new vagrancy be sent to *W.*?

Resol. In this case it is fit to send such a rogue to the place of his birth ; for this is but a mistaking, and no legal setting.

28 Q. If an indictment be preferred to the grand Jury of the quarter-Sessions of the Peace against one for murder, manslaughter, for robbery, felony, or pety-larceny, and ignoramus found thereupon, whether the said Sessions may deliver the party by Proclamation or not ?

Resol. Not by Proclamation at all, but for pety-larcenies, and other pety-felonies, in discretion the Gaol may be delivered of them.

29 Q. If a Constable be chosen and refuseth to take his Oath, what shall be done, and whether a Constable may make a deputy, and by what means ?

Resol. The refusal or neglect to take Oath in such a case is a contempt worthy of punishment, and thereupon to fine, and imprison him, and the making of a deputy is rather by toleration, then by law.

30 Q. If a Constable die or remove out of the Parish where, &c. how is his place to be supplied ?

Resol. By the Lord of the Leet, if that time fall near, otherwise by the Sessions, but if that be too far off, then by the next Justices.

31 Q. If a poor weak man be chosen Constable or Tithingman, and be unfit for the same place, how may he be removed, and a fit man sworn in his room ?

Resol. The Justices of Peace must help this, and

and if the Lord of the Leet have power to choose a Constable or Tithingman, and perform so ill, it is a just cause to seize his liberty.

32 Q. If a Nurse-child, a Scholar at a Grammar-School, or in the University, prove to be impotent by sickness, lameness, lunacy, or discovery of ideocy, &c. how such persons shall be disposed?

Resol. A Nurse-child, or a Scholar at the Grammar-School, or at the University, or persons sent to Common-gaol, Hospital, or houses of Correction, are not to be esteemed as persons to be settled there, no more then Travellers in their Innes, but their settling is where their Parents are settled; and children born in Common-gaols, and houses of Correction, their Parents being Prisoners, are to be maintained at the charge of the County.

33 Q. What proportion Parsonages, or Tithes shall bear to the taxation of the poor of the Parish?

Resol. The Parson or Vicar presentative, shall according to the reasonable value of his Parsonage, having consideration to the just deductions.

34 Q. Whether for placing the poor of the Parish, not to be removed by consent of the Parish, these poor men may not be placed as Inmates for a time?

Resol. They may by expresse words of the Statute of the 43 of *Elizabeth*.

35 Q. If a Parishioner or owner within a Parish, do bring into the Parish without the consent of the Parish, a stranger of another Parish, which is, or apparently is like to be burthenso m

then some unto the Parish, how they may ease themselves?

Resol. By taking such a one to the charge of the rates of the poor, not onely having respect to his ability or the land he occupyes, but according to the damage and danger he bringeth to the Parish by his folly.

36 Q. For warding in the day-time for apprehending of Rogues, whether the Constable may not enlarge it to a farther time?

Resol. Warding in the day-time is of great use, and must be left to the discretion of the Constables, or direction of the Justices to vary according to the occasion.

37 Q. Whether Alehouses ought to be allowed only in thorowfare Towns, and others in other places to be restrained only to sell to the poor out of doors.

Resol. The Justices shall do very well to allow none but in places very fit for their scituation and uses, and to moderate the number.

38 Q. A man for his quality otherwise fit to be a Constable, or of other Office of that nature, procures himself to be the Kings servant extraordinary, and by that means would excuse himself to serve in the Country?

Resol. A servant extraordinary may well perform his ordinary service in the Country according to his quality.

*The Justices opinion touching the
Commissions by which the Ju-
stices sit at Newgate.*

THE Justices at Newgate sit by vertue of two Commissions, *viz.* Gaol-delivery, and Oyer and Determiner.

By the Commission of Gaol-delivery they may try all Prisoners in the Gaol or by Bail, or such as be indicted will render themselves, generally for all Felonies : and also for such other offences as are particularly assigned to them by Statute.

The Statute of 4 *Elix. cap. 2.* doth give them power to receive Indictments against Prisoners or such as are upon bail, and to proceed to try the same, *viz.* Indictments taken before the Justices of the Peace, and by equity thereof all Indictments before Coroners, 3 *Mar. Bro. Commission. omnium 24.* saith, That the Commission is *ad deliberand. Gaol. de prison. in eisdem existen.* But they cannot take Indictments as Justices of Gaol-delivery, but being Justices of the Peace, they may take Indictments against Prisoners, but not against them that be at large : for as much as power is given them, consequently they must have means to do so, which is by Indictments. *Id. querend.*

Howsoever it is clear, that they may enquire of many offences, and take Indictments in such cases where power by the Statute is given to the Justices of Gaol-delivery, in such cases where they have authority by Law or Statute

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tute there the title of Indictments is, that *Ad gaolam deliberationem tent.* before the Commissioners of Gaol-delivery, *I. S.* was indicted, and the Record must be made up so.

And whereas by the Statute of 4 *Eliz. cap. 2.* Indictments taken before Justices of Peace or Coroners, or any other against any Prisoners, then the entry of the Indictments is returned taken, *Memorand. quod ad generalem sessionem tent.* before *A. B. C.* Justices *ad pacem in Com. Middlesex* or *London, I. S.* was indicted, and then tried before Justices of Gaol-delivery, and by vertue of the said Statute, Indictments taken before Justices of the Peace of *London* or *Middlesex*, are tried before the Justices of Gaol-delivery.

The Commissioners of Oyer & Terminer is *Ad triand. inquirend. audiend. & determinand.* They may enquire of all offences mentioned in the Commission, albeit the offenders be at large, but they cannot try Prisoners upon Indictments taken before any other then themselves, as the Justices of Gaol-delivery may by the aforesaid Statute, unless there be a special Commission made, as it was in the case of the Earl of Leicester, mentioned in *Plow. Com.* for the ordinary Commission of Oyer and Terminer is *ad inquirend. audiend. & determinand.* therefore they cannot determine of things, unless they made enquiry first, and on the other side also the Justices of Gaol-delivery may try Indictments taken before Justices of the Peace, yet if one be indicted before Commissioners of Oyer and Terminer, the Justices of Gaol-delivery cannot try the same, because the Records of the

Com-

Judges of Assises. 383

Commission of Oyer and Terminer are to be returned in the Kings Bench, 44 E.3.31.

The Commission and the Records of the proceedings before the Justices of Gaol-delivery, are to be returned to the *Custos Rotulor.* of the County, when the same persons are Justices of Gaol-delivery, and of Oyer and Terminer, they may sit the same day and place, and enquire by the same Jury, but the entry of the Records must be several, according as the Indictment is.

At the Assises in the Countrey, the Justices have their several power as the Justices of Gaol-delivery, Oyer and Terminer, and Justices of Peace.

But when the Records are made up, they must be according to the power they made election to proceed upon.

This is the regular and legal course. But the Clerks of the Assises promiscuously make entry thereof; but if a Writ of Errour be brought, they must certifie according to Law, or else it will be erroneous, and so upon a *Certiorari*.

The Sessions of London may be begun at the Guild-hall, and then adjourned to Newgate, If some Indictments be at Guild-hall, then those must be so certified: if others at Newgate, then the adjournment must be mentioned, and that the Indictment was then taken.

Note that the trial of Indictments taken before Justices of the Peace of London, cannot be tried at Newgate, as in nature of a trial before Justices of the Peace at London, for many of the Commissioners for Gaol-delivery, are not Justices of the Peace for London, but in such cases the

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the trial must be before the Justices of Gaol-delivery : as upon Indictments taken before the Justices of the Peace of *London* ; as in the case of Indictments taken before the Justices of the Peace of *Middlesex*.

But if Indictments at Newgate be originally taken before them, as Justices of Gaol-delivery, then it is inquirable how the Jury sworn, and impannelled to enquire at the Sessions of the Peace for *London* or *Middlesex*, do serve to present Indictments before the Justices of Gaol-delivery at Newgate, unless the custome and usage will warrant, the two several Juries, sworn at the Sessions of the Peace for *London*, or *Middlesex*, are also by the same Oath and impannelling to serve for the grand Jury for the Commission of Gaol-delivery, and Oyer and Terminer.

Upon conference with Mr. Keeling, and the Clarks for Newgate of *London* and *Middlesex*, and the Clarks of Assises, and view of the several Entries, a more mature and certain resolution may be given, this being in haste, and without such considerations as were requisite.

Cases and Resolutions upon the Statutes of 18 *Eliz. cap. 3.* touching Bastard-children. And upon 43 *Eliz. cap. 2.* concerning the poor, and provision for them.

Hamonds Case Mich. 3 Car. Kings Bench.

Bastard.

H *Amond* having got a child, the examination thereof was referred to the two next Justices according to the Statute: upon which the Justices make an order, which *Hamond* refused to perform; thereupon they cause him to enter into bond to appear at next Sessions, where he appeared; the Justices there made another order; and because he refused to perform this, they committed him to prison. Resolved, the imprisonment was illegal, being not warranted by the Statute, but they ought to have proceeded against him upon his bond.

By *Hide* chief Justice, the Justices ought not to commit for not performing their order of quarter-Sessions, where they alter the former order made by the Justices who had first the examination; for by the second order the first was made null.

S

Con-

Concerning providing for Bastard-children.

Smyths Case Mich. 6 Car. R² B.R.

IT appeared by proof before two Justices that *Smyth* was the reputed father of a bastard-child, and the Justices made an order for maintenance of the child, and for discharge of the Parish according to Law ; and afterwards committed him for not performing the order : Resol. the commitment was void, and that the Justices should have taken bond of him to appear at next Sessions.

The Case was further :

Sir Henry Pool and *Doctor Standard* being the two next Justices, did examine this matter, upon which it then appeared that one *Feild* was the reputed father, and made their order against *Feild*, that he should maintain the child, discharge the Parish, and enter into bond for his appearance at the next quarter-Sessions, and to abide their order there made : He refused to enter into bond, but appeared at the Sessions, and there shewed that *Smyth* was the reputed father ; the former order was certified, but the Justices did nothing upon it, but granted a new reference unto *Doctor Standard* and *Master Gregory*, *Sir Henry Pool* being gone out of the Country : And they made the last order contrary to the former ; and by this they charged *Smyth* as the reputed father. Res. that the Justices at their next quarter-Sessions ought to have made a final order, or to have affirmed or disallowed

disallowed the former order. And then afterwards have granted a reference to the same next Justices which made the first order, to consider better of it, and of the proof; and this had been according to Law.

Resol. That after an appeal to the Sessions, and the Justices there do repeal the first order, the matter then is as *res integra* before them; and they may then grant a reference to the two next Justices.

Nota. That the Recognizance thought to be in the disjunctive, *viz.* To perform the order by them made, or to appear at the next quarter-Sessions, and to abide the order there.

Nota. One Justice of Peace by his warrant may commit, but the *Mittimus* being shewed, and it not pursuing the Statute, and the Recognizance not being in the disjunctive, *Smyth* was bailed to appear at next Sessions, &c.

Resol. The reference by the Justices at the Sessions, before they had allowed or disallowed the first order was illegal.

Bomber against Panter, Pasch. 8 Car. B.R.

Resol. That upon the Stat. of 18 *Eliz.ca. 3.* that the Justices of Peace at their Sessions, nor the Justices of Assises, have power to meddle with bastard-children but upon an appeal and return. But this is to be done by the two next Justices.

At Salop Assises, 19 Martii 7 Car. 1631.

This question was propounded to Sir *William Jones* Knight, Justice of Assise, by a Justice

Justice of Peace, viz. upon the Stat. of 18 *Eli.* cap. 3. & 7 *Jac.* cap. 4. touching bastard-children, by the first Statute punishment is inflicted; and by the second, if she offend the second time, she is to be sent to the house of Correction, &c. Upon this, question was; One had a bastard-child, but she was not questioned for it, no proceedings being had against her upon the Statute of 18 *Eli.* 3. Afterwards she had a second bastard; whether she shall be proceeded against upon the Statute of 7 *Jac.* 4. for the second offence, or whether the second offence shall not be taken for the first.

Resol. She shall not be punished upon the stat. of 7 *Jac.* as for her second offence, unless she had been before questioned and punished for her first offence; but this second offence shall be now taken to be as her first offence, and so is to be punished for the same according to Law.

Town of *Tewksbury* against the Town of
Twynning at Assises, 9 *Julii*
8 *Caroli* 1632.

A servant maid dwelling in *Twynning* was gone with child, and being near her time was conveyed by practice into an out-house in *Tewksbury* where the child was born; afterwards *Twynning* gave her relief, and the Ministers of *Twynning* christened her child, and as soon as she was able to remove, they of *Twynning* gave her and her child relief for two years; afterwards the mother being sick, they sent her away with her child to *Longden* in Com. *Wigorn* where

where the mother died : then they of Longden sent the child unto *Twynning*, and they of *Twynning* sent the child (being under the age of three years) unto *Tewksbury*, and they sent it back to *Twynning*.

Resol. The child regularly is to be kept where it was born, if no practice was used to have it born here, but if by practice, then it is to be kept by the Parish where she did dwell, and where she was got with child, and which used practice to have the child born in another Parish, which is the Parish of *Twynning*, and so was ordered : referred to Justices of Peace to examine the practice.

Ad Affixas, 20 Julii 13 Caroli 1637.
at Glouc.

Anne Tarling having a bastard-child, upon complaint made thereof to the Sessions it was referred to the two next Justices to examine and order ; who did make an order against *John Wood* to be the reputed father, and ordered him to allow 1 s. 4 d. weekly, &c. *Wood* appeals to the Sessions, where the said order was disallowed, and one *William Cole* charged to be the reputed father : *Fones* Justice without examining the cause, confirmed the last order made at Sessions, which was final, and no appeal to be admitted against it.

And in a *Lincolnshire* cause one *Pridgeon* being questioned, and found by two Justices to be the reputed father of a bastard-child, and so made an order against him for allowance, &c.

Afterwards he appeals to the Sessions, where the said *Pridgeon* was discharged, and another was found to be the reputed father, and an order made against him.

Afterwards at another Sessions of the Peace, upon a reexamination another order was made against the last order, whereby *Pridgeon* was found again to be the reputed father, and so ordered to maintain the child. *Pridgeon* appeals to the Judges of the Kings Bench. Resol. that *Pridgeon* shall be freed from the second order at Sessions, it being illegal. And the first order made by the quarter-Sessions upon appeal to them to stand in force, and no appeal to be admitted against it, the same being final, and not to be altered by the Judges of Assise. And so it was resolved by the Judges of the Kings Bench. ¶ And so upon the Stat. 43 *Elix. cap. 4.* for charitable uses, if the Commissioners make an order or decree in the Case, and upon appeal to the Lord Keeper, and exceptions put in, if upon that the decree made by the Commissioners be confirmed by the Lord Keeper, this decree is by this made to be final, and no subsequent appeal to be admitted.

Cases concerning provision for poor people.

Reves Case, Mich. 7 Car. R. B. R. Stat.

43 Eliz. cap. 2.

Poor.

R Eve was brought to the Barre by *Hab. Corp.* being committed upon the Stat. of *43 Eliz. cap. 2.* for that he being the reputed father of one *Ben. Gregory*, a poor child, who was maintained by the Parish of *S. Giles* in the Fields, and he being a man of ability refused to maintain the child, or to find sureties for his appearance at next Sessions. Reve moved that the commitment was illegal, being grounded upon the said Stat. wherein is this clause, *That the Father and Grandfather, Mother and Grandmother, the Children and Grandchildren of every poor person not able to work (they being of ability) shall pay such rates, and in such wise as the Justices of that County where such person dwells, at their next quarter-Sessions shall assess, upon pain of forfeiting 20 s. per mens.* Wherein there is no such person taken notice of as the reputed father of a bastard, which is *filius populi*.

It also appeared that Reve dwelt in *Suffolk*, and coming to *London* about Law-suits was taken by a warrant of a Justice of Peace of *Middlesex*.

Resol. The granting the warrant was illegal, & all the proceedings in *Mid. cor am non Judice*.

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Nor have the Justices any power at their Sessions in *Middlesex* to make any order, the party living in another County. And he is not to be committed until an order made, and a refusal to pay the 20 s. a month, and if he refuse this, then (for want of distress) to be committed, and not before.

By *Jones* and *Croke* Justices, it is reasonable that he should contribute to the maintenance of the child he being of ability, but this is not the way to compel him. The Justices in *Sussex* may make an order in it, and so cause the money to be sent up.

Draper and Town of Glenfield in Com. Leic'.

At Summer Assizes before *Hutton* and *Croke* Justices was this Case ; A grandmother being a person of ability had a poor granchild relieved by the said Parish, the grandmother marries with *Draper*; the question was, whether *Draper* should be taken to be a grandfather within the Statute of 43 *Elix. ca. 2.* and so liable to maintain the child.

Resol. That he shall, for that the wife after her marriage had no ability at all, her estate being a gift in Law to the husband.

By *Croke*. Where the grandmother was of good ability at the time of the marriage, it is good reason the husband should be charged, but not otherwise.

Mich.

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Mich. 7 Car. Regis. Gerrards Case.

Gerrard married the grandmother being a poor Widow, but had no meanes nor advancement at all by her, the husband also had but small estate; but having been married 18 or 19 years by industry of the wife are come to be of ability: And whether he should provide for a poor grandchild of his wives was the Question.

Croke Justice. If grandfather and grandmother have no estate they shall not be charged. Secondly, if the grandmother have no means, and she afterwards marry with one that hath, he shall not be charged with keeping this child.

But if the husband have sufficient means with the grandmother in marriage, there he shall be charged during the life of the grandmother and no longer.

If land descend to the grandmother after marriage, and the husband enjoys it in her right, here he shall be charged with the child.

When the wife hath ability at the time of the marriage he shall be charged, because by the marriage he hath gotten the means which the grandmother had, out of which the child is to be maintained, and so *transit cum onere*.

Whitlock Justice. The making the order against the grandfather in this Case was well, he being become of ability by the industry of his wife. *Croke contra.* The Justices differing in opinion, ordered a trial at Law.

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Town of *Kimalton* against *Laystas*, 7 Car.

at Hereford Assises 1621. Stat.

43 *Eliq. cap. 2.*

Winde and his Wife dwelt at *Laystas* five years; and after came into *Kimalton*, and did there rent a house for a year, and having children, the Town fearing they would be chargeable to them, they procure a Justice of Peace to charge the Landlord to warn them out of his house, or put in security to save the Town harmless: The Landlord put them out at the years end, and let his house to another.

Winde complains to the Justices, who order that the Town of *Kimalton* should provide a house for him and his wife, paying a yearly rent, or else that the overseers of the poor doe provide for them, which they refuse to doe; whereupon *Winde* complains to the Judges of Assise.

Resolved by *Whitlock* Justice, that the order made by the Justices of the Peace was against Law, because that *Winde* was neither poor nor impotent, he being able to work, and had means, and paid his rent: But *Winde* is to provide for himself where he can get a house; and he might when he pleased goe again to *Laystas* where he formerly lived and had means.

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*Ad Aff. 19 Martii, 7 Car. Regis 1631.
at Salop. Stat. 43 Eliz. cap. 2.*

Margaret Brown was begot with child by one *Gough*, the child born in *Drayton* in *Com. Salop* 11 years since, and *Gough* the reputed father took the child from the mother, and placed him at nurse elsewhere, and after marries another woman and dwells with her at *S. Chad*, the bastard-child dwelt with him; afterwards *Gough* the reputed father dies, leaving his wife and divers children, and the said bastard-child all poor and maintained by the Parish.

The mother of the bastard hath been all this while in service, but is a simple woman, yet able to work, and had 3 l. left by friends, but not yet come into her hands.

Whether this bastard shall be sent to the Town of *Salop* where he lived for 10 years, or at *Drayton* the place of his birth, or to his mother who is not able to maintain him.

Resol. by *Jones* and *Whitlock* Justices, that this bastard-child is to be sent to his mother to be kept by her if she be able, if she be not, then to the Town of *Salop*, in regard he had been there formerly settled with his reputed father, and because it is the place of last settling, he being there for 10 years, and the Law respects the place of last settling, as well as place of birth.

At the Assises, 28 Julii, 5 Car. 1629.

Stat. 43 Eliz. ca. 2.

Dorothy Clavelly with a child under the age of 7 years going about as a wanderer, came to *Arlee* in *Com. W.* and there desired a Warrant to be conveyed to *Egleshal* in *Com. S.* where the child was born: The Constable of *Arlee* made her such a Pass, and delivered her to the Constable of *Rippesford*, who delivered her to the Constable of *B.* in *Com. W.* where by the way she died; they sent the child to *Rippesford*, they send it to *Arlee*, *Arlee* sent it back to *Rippesford*.

Whether the Parish where the mother died, or where the child was born was to keep the child?

Another Case being a wanderer with three children, born in three several Parishes, came with them unto *Dale* in the Parish of *Sale* unto one *Burton* her sister, where she died, and left the three children there.

By *Jones* and *Whitlock* Justices, &c. That the children ought to be kept and provided for by the several Parishes where they were born, and not in the Parish where the mother died *in transitu*, and was so ordered accordingly, because the place of birth is a setling of these children in a place certain; and the wandring of the mother afterwards with them doth not alter the Case.

Resol. also, that the place of birth, or place of last habitation, if the same be known, are in judgement of Law said to be the places of setling.

Setling of poor. 397

ling. So that if a man be born in one Parish, and afterward is an inhabitant and servant in another Parish, and after this becomes a wanderer, he is here to be sent to the place of last setling, to be there kept and provided for.

Nota. These children in the two last Cases were sent to the places of their births as poor, not as wanderers or vagabonds.

Note also, that the Statute of 39 *Eliz.* 4. for punishing rogues, that the last Proviso therein shall not extend to children under the age of 7 years, for such shall not be accounted wanderers within this Statute.

At Lincoln Assises, 11 Martii 9. *Caroli*
Regis, 1633.

Upon complaint by Sir *Anthony Irby* that the Assessments for the poor by the Town of *Boston* and Overseers were unequal.

By *Hutton* and *Croke* Justices; such assessments ought to be made according to the visible estate of inhabitants there both real and personal there, and not for what estate he hath in other Parishes.

He also complained that he had divers tenants there, and that they taxed both him and his tenants.

Resolved, they are by stat. 43 *Eliz.* 2. to assess the occupiers of land, and not the lessor who receives the rent, the occupier being by law charged to pay that Sessment.

At Worcester Assises, 11 Martii 14 Car.

Reg. 1638. Stat. 43 Eliz. ca. 2.

Inter Vill. de Suckley, & Vill. de Whitborn.

William Chapel a Creeple born in *Whitborn*, 20 years since he went from thence and dwelt in *Suckley*, and paid rent for a house. And afterwards he came to the Town of *Luston*, and there continued 20 weeks, and wrought as a labourer in a Quarrey of stone, and by a fall of a stone his back was broken, and so he was made impotent, and there was taken as a vagrant wandering and begging; upon this he was sent to *Whitborn* where he was born, but they refused to receive him.

By *Jones* Justice: If he did beg and wander at *Luston*, he is then by the Law to be sent to *Whitborn* where he was born, and they ought to provide for him as one of their poor.

Note. At this time it was also resolved, that if one great with child be sent to the house of Correction, and there she is delivered, the child shall be sent to the Parish from whence the mother came, there to be provided for, it being the place where she was last settled.

Nota. It was also resolved that a rogue ought not to be sent to the house of Correction, but he is to be whipt and sent to the place where he was last settled, if the same be known, otherwise to the place of his birth.

House of Correction.

But the house of Correction is for the poor of a Parish who refuse to work, there they are to be whipt and set on work.

A

Compendious Charge to be given at the Quarter-Sessions.

FOR as much as the Government of this Kingdome consists of two parts, *viz.* first in Laws Ecclesiastical for the peace of the Church, and Laws Civil or Temporal for the peace of the Land, it is not unfit to lay a foundation by taking notice of that excellent Law made *anno 3 Ed. 1.* which is, First of all the King willeth and commandeth that the peace of the holy Church, and of the Land, be kept and maintained in all points; and that common right and justice be done to all as well poor as rich, without respect of persons: And there is another excellent expression in an Act of Parliament made *32 H. 8. cap. 9. viz.* There is nothing which in this Realm that conserves the Subjects in more quietness, rest, peace, and good concord, then due administration of Laws; and those Laws which are here proper for your inquiry, and our administration at this time are first such as made against offences touching Religion.

The Articles of the Charge.

Popes Supremacy.

The affirming or defending by any advised
act the Popes Ecclesiastical Jurisdiction in any
of.

of the Kings Dominions, the first offence is *Præmunire*, the second offence is Treason, 5 *Eli*z. 1. & 1 *Eli*z. 1. the third offence high Treason, *ibid*.

Refuse Oath of Supremacy.

The refusing to take the Oath of Supremacy upon any lawful request, the first offence is *Præmunire*, and the second is Treason, 1 *El*. 1. 5 *Eli*z. 1.

Oath of Allegiance.

The refusing the Oath of Allegiance by any person above 18 years of age it is *Præmunire*, stat. 7 Jac. 6.

Seducing any from their obedience.

The practising to withdraw any of his Majesties Subjects from their obedience, and for that intent from their Religion to the Romish, is Treason, 23 *Eli*z. 1.

Concealing such offenders.

The aiding or concealing such offenders for 40 daies, and not disclosing it to some Justice of Peace, is misprision of Treason, stat. 23 *Eli*z. 1.

Saying or hearing Maſs.

If any shall say or hear Maſs, for the first offence forfeits 100 Marks, and for the second offence 200 Marks and one years imprisonment.

Agnus Dei, Popes Bull, &c.

The bringing into the Kingdome, or using any Bull, *Agnus Dei*, gotten from the Bishop of Rome, or other superstitious thing, or offer the same to any person to be used; or the absolving or countelling his Majesties Subjects to the use of them, or concealing or countenancing any such offender, first offence is *Præmunire*, 3.

munire, second offence is Treason, 13 *Eliq. 2.*
23 *Eliq.*

Jesuit, Priest.

The harbouring or aiding any Jesuit, Priest, or Deacon, ordained by authority from the See of Rome, knowing him to be such, felony without Clergy, 27 *Eliq. 16.*

Witchcraft.

Witchcraft; or Conjurat[i]on, or invocation of evil Spirits is felony, 1 *Jac. ca. 12.*

False Prophecies.

The publishing of phantastical or false Prophecies to raise rebellion, dissention, loss of life, or other disturbance in the Kingdome; for the first offence he forfeits 10 l. second offence all his goods, and imprisonment for life, 5 *Eliq. 15.*

Swearing and cursing.

Prophane swearing and cursing, the offender forfeits 12 d. to the use of the poor of the place where the offence committed, 21 *Jac. 20.*

Perjury.

The committing or procuring wilful perjury forfeits 20 l. and disabled for a witness, and to stand on the Pillory, 5 *Eliq. ca. 9.* 14 *El. 11.*

Profaning Lords days.

Profaners of Lords days by any pastimes or sports whatsoever, or by voluntary work, as Shoo-makers, forfeits 3 s. 4 d. Drovers, Butchers forfeits 6 s. 8 d. 1 *Car. 1.* 3 *Car. 1.*

Disturbing a Minister.

Disturbing Preachers in Sermons or Divine Service, three months imprisonment and good behaviour, 1 *Mar. 3.*

Depra-

Depraving the Sacraments.

Contemners and depravers of the blessed Sacrament of the body and blood of Christ in word or actions, within three months, imprisonment and fine at discretion, 1 E.6. 1 Eliz.1.

Derogating from the Book of Common-Prayer.

Any person or Minister derogating from the Book of Common-prayer, or not using the same, or administering the blessed Sacrament in any other form then is there appointed, the first offence is loss of promotion and one years imprisonment; the second offence deprivation and imprisonment for a year; the third offence deprivation and imprisonment for life, 1 Ed.6.1. 2 & 3 Ed.6.1. 1 Eliz. cap.2. 23 Eliz. cap.1.

Justices of Oyer and Terminer, and of Assise may hear and determine,

Or maintaining any Minister in the same, or that shall interrupt the publick Service in the Church; the first offence 10 l. and if not paid within six weeks, he shall suffer three months imprisonment; the second time 20 l. and six months imprisonment; the third time forfeit goods, and imprisonment for life, 2 & 3 Ed.6.1.

12 d. a Sunday not coming to Church.

The not repairing to Church upon every Sunday and Holiday weekly, there abiding soberly all the time of Divine-Service, if they be of the age of 16 years, forfeit 12 d. for every Sundays absence, 1 Eliz.2. 23 Eliz.1. 3 Jac.4.

Recu-

Recusants.

The not repairing to Church for the space of one month together, forfeits 20 l. a month, or two parts of the offenders lands, 1 *Eli* 2.

School-masters.

The keeping any School-master not resorting to the Church, or allowed by the Ordinary, forfeits 10 l. a month, and that School-master disabled, and one years imprisonment, 23 *Eli* 1. 3 *Fac* 4.

Striking in Church or Church-yard.

The malicious striking with any weapon or drawing any weapon in Church or Church-yard the offender to lose one ear and marked with letter stat. 5 *Ed* 6. cap. 4.

The keeping of Fair or Market in Church or Church-yard, fine at discretion, 13 *Ed* 1. 6. *Lamb* 419.

Pety-Treason.

The servant killing his Master or Mistres, the wife her husband, the Clerk his Ordinary, is Pety-Treason, 1 *E* 6. ca. 12.

Murder.

The taking away any mans life upon malice forethought or poisoning any, is murder, 1 *E* 6. ca. 12.

Stabbing.

The stabbing any that hath not his weapon drawn, or hath not first stricken the party stabbing, so as he die within six months, no Clergy to be allowed for this offence, though but Man-slaughter, stat. 1 *Fac* ca. 8.

Se defendendo, per infortunium.

Killing any man in his own defence, or by Chance-medley, the party forfeits all his goods, and

and to be imprisoned until he sue out his pardon of course.

Cutting out of Tongues.

The cutting out of the tongue, or putting out of eyes of any the Kings Subjects maliciously, is felony by stat. 5 H. 4. ca. 5.

Buggery.

Committing the detestable sin of buggery with man or beast, is felony without Clergy, stat. 25 H. 8. 6. 5 Eliz. 17.

Rape.

The forcing or ravishing any woman above 10 years of age, or carnally knowing any under, is felony without Clergy, stat. Westm. 2. ca. 34. 18 Eliz. 7.

Marrying two wives.

The taking a second husband or wife, the first being alive is felony, unless the one hath been above the space of 7 years beyond Sea, &c. stat. 1 Jac. 11.

Robbery.

The robbing any man upon the high-way, cutting a purse, or taking above 5 s. out of any dwelling-house in the day time, or breaking any dwelling-house in the night, with a felonious intent, which is burglary, and stealing of horses or mares; all these are felonies without Clergy. 8 Eliz. 4. 5 Ed. 6. 9. 23 H. 8. cap. 1. 39 Eliz. 15.

Felony.

Taking any mans goods with an intent to steal them, is felony, if above 12 d. and if under 12 d. pety larceny.

Burning houses.

The burning maliciously any dwelling-house

house or barn, having grain or corn therein is felony without Clergy, 4 & 5 Ph. & Ma. 4.

Servants embez. Masters goods.

The servants embezelling their Masters goods is felony, if it be to the value of 40 s. and the party 18 years of age being trusted with it, unless he be an apprentice, 22 H. 8. 7. 5 Eli. 10.

Hunting in the night.

The unlawful hunting by night in Parks or Warrens, and denying the same upon examination is felony by the Stat. 1 Hen. 7. cap. 7.

Assemblies to alter Laws and throw down enclosures.

The rebellious assembly of 12 persons or above, being assembled, and intending to goe about a practice with force unlawfully to change any Laws of this Realm, or forcibly to cast down any inclosure, to have any common or high-way there, or doe any such unlawful act, and being commanded by the Sheriff or any Justice of Peace by Proclamation to depart, and yet have continued together one hour after; or if any have caused to be raised to the number of 12 persons or above to such intent, and being commanded by proclamation, and yet have so continued together an hour after; or if any have delivered virtually money or weapons to any such person so assembled, or have hindred any that went to make proclamation, this is felony per Stat. 1 Mar. ca. 12. 2 Eli. ca. 16.

Accessories before and after.

All counsellors or procurors before the felony, and all aiders and receivers after the felony, knowing the same, are accessories.

Extor-

Extortion in a Coroner.

Any Coroner that takes above 13 s. 4 d. for the view of any dead body ; and upon the murtherers goods, or of the Town from whence he escaped, he forfeits 5 l. 3 H.7.ca.1.

In a chief Constable.

Any person that takes above 2 d. for registering any servants testimonial upon his departure from one place unto another, fine at discretion, 5 Eliz.4.

Extortion in an Ordinary for probate of Wills.

Any Ordinary or his Clark that takes above 6 d. for the probate of a Will, or 6 d. for letters of Administration, whereof the goods of the intestate exceeds not 10 l. and not above 3 s. 6 d. where they exceed not 40 l. or 5 s. for both, or a peny to the Scribe for every line of 10 inches, loseth 10 l. and to the party so much as he hath paid. 22 H.8. ca.5.

Clark of the Market and other Officers.

Any Clark of the Market, Clark of the Peace, Justices Clark, or Sheriffs Clark, or Bailiffs or other Officers that take above their due fees, 23 H. 6. 10. 1 Ed. 4. 2. 12 H.7. 15. 42 Ed.3.9. 27 Eliz.7. 27 H.4. 5 E.6.25. 7 H. 7.3.7 H.7.4.

Hue and Cry.

Hue and Cry raised unjustly, or not being followed when well raised, 3 E.2.ca.9.

Watch.

Watch not set in any Town between Ascension-day and Michaelmas, 2 Ed.2.

Going

Going armed.

Riding or going armed in affright of the Country, is imprisonment and loss of armour, 2 Ed. 3. cap. 3.

Escape.

Escape negligent of any Prisoner arrested for felony, 1 Ric. 3. ca. 3.

Barretors.

Common Barretors, or maintainers of suits, Embracers of Jurors, must suffer imprisonment and good behaviour, 34 E. 3. 1. 33 H. 8. 10. 37 H. 8. ca. 7.

Forcible entries.

Forcible entries, or detainers of possessions by force, fine and imprisonment, stat. 8 H. 6. 4.

Cutting ponds.

Cutting of pond-heads, taking of fish, hawks, or hunting deer or conies against the owners will in any warren or ground inclosed, three moneths imprisonment, and good behaviour for seven year, 5 Eliz. 2. 1. 3 Jac. ca. 13.

Tracing hares.

The tracing hares in the snow, or killing them by any engine, the taking of pheasants or partridges by Net or any other device, as also hawking and hunting in eared corn; forfeiture for every pheasant 20 s. for a partridge 10 s. for hawking 40 s. 11 Hen. 7. ca. 17. 23 Eliz. 10. 7 Jac. 11. 1 Jac. ca. 17.

Forestalling.

Forestalling, which is intercepting of corn, and buying, it coming to the market before it come there, 5 Ed. 6. ca. 14.

Ingros-

Ingrossing.

Ingrossing, which is the buying any corn or commodities with intent to sell again.

Regrating.

Regrating, which is the buying of any commodity in any Market, and selling it again in the same, or in any other Market within four miles of the same; the first offence loss of goods, and two months imprisonment; the second offence double the goods, and six months imprisonment; the third offence is loss of goods and pillory, 5 E.6.14. 5 Eliz.12. 13 Eliz.12.

Destroying the egges of wild-fowl.

The taking or destroying the egges of any wild-fowl usually eaten, before the first of March and the last of June, or the fry of fish, imprisonment for a year, and lose for every egge, 25 H.8.1. 3 Ed.6.3. 1 Eliz.17. 14 Eliz. ca.1. 27 Eliz. ca.11.

Drunkennesß.

Any person convicted of drunkenness forfeits 5 s. to the poor, stat.4 Jac.5.

Butchers, &c. selling victuals at immoderate prices.

Butchers, Inholders, Brewers, Bakers, Tipplers, or other sellers of Victuals, at immoderate prices, or that put off any corrupt or unwholesome victuals, are to lose double what they take, 13 R.2.c.8. 2 & 3 Ed.6. c.15. If it be done by conspiracy, the first offence 10 l. and 20 days imprisonment, the second offence 20 l. and pillory, the third offence 40 l. and the loss of one ear.

Vessels of wine, ale, &c.

The Vessels of ale, wine, beer, or oil not being of the full standard; the barrel for beer must be 36 gallons; and for ale, wine, and oil 32. fine is 40 s. per stat. 1 R. 3. 13. 2 H. 6. 11.

Alehouses disorderly.

Any Alehouse being disorderly, or not keeping the assise of ale and beer, in not selling a full quart of strong, and two quarts of small for a penny, or any other brewing without licence; 10 s. for every offence, and disabled for three years; 4 Jac. 5. & 1 Jac. 9. lose 20 s. for the first offence, and for the second offence house of Correction, 3 Car. 3. 5 E. 6. three days imprisonment without bail.

False weights and measures.

The buying or selling by false and unsigned weights and measures, the first offence 6 s. 8 d. second offence 13 s. 4 d. third offence stand on the Pillory, 11 H. 7. 4.

Artificers conspiring, &c.

Artificers conspiring to work but at certain rates, the first offence 10 l. or 20 days imprisonment with bread and water, second offence 20 l. or standing on the Pillory, third offence 40 l. or loss of an ear, 3 Ed. 6. 5.

Guns.

Using or having of Guns or Cross-bows against Law, or shooting hail-shot in them, for this 10 l. for every offence, 3 H. 8. 6.

Servants.

Retaining servants for less than one year, or they refusing to serve if they be compellable; or their departing, or being put away without a quarters warning, or the allowance of a Justice

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of Peace. Giving or taking greater wages then is allowed; or departing from one town to another without a testimonial, or not finishing a work begun, or not continuing so many hours, being hired by the day or week as is appointed, or taking an Apprentice, or using any art not having been an Apprentice for seven years, *Stat. 5 Eliz. ca. 4.*

Bridges and High-ways.

The Bridges or High-ways being out of repair, and by whose default. Constables and Churchwardens not calling their Parish together every Easter-week, to appoint six days for amending the same, *22 H. 8. cap. 5. 2 & 3 P. & M. ca. 8. 5 Eliz. 15. 18 Eliz. 9. 27 Eliz. ca. 11.*

Unlawful Games.

The using or maintaining unlawful games, as Cards, Dice, Bowling, Coyting-cloth, &c. Fine 40 s. for one day, 6 s. 8 d. for every time, *33 H. 8. ca. 9.*

Bows and Arrows.

Persons under the age of 60 years, not having Bows and Arrows in his house for himself, servants and children; and inhabitants of any town not continuing their Butts, *33 H. 8. Fine 6 s. 8 d. fine 20 s.*

Cottages. Inmates.

Erecting a Cottage without laying 4 acres of arable land unto it; or entertaining or receiving Inmates, forfeits for erecting 10 l. for continuing 40 s. a month, *31 Eliz. 7.*

Now seeing *Justitia est duplex, viz.* The punishing part, and the preventing Justice, the premises only touching the former, therefore the

the conclusion shall point something at the latter, with a direction how it may be effected: We find by experience that it is not frequent punishment that prevents offences, *præstat cautela quam medela*, it is better preventing then redressing offences. This preventing Justice consists in three things (according to a learned Author of our Laws, *Co. 3 Inst. Epilogue.*)

First, in the good education of youth, which ought to be by instruction in the knowledge of Religion, and by learning some trade in their tender years, so as there should not be an idle person, or a begger according to the Scripture, *Deut. 15 4.* But that every child whose Parents are poor, might at the age of seven years earn their own living; and this for the time to come would by preventing Justice avoid idleness in all, which is the *mare lethum* where so many souls perish, and by honest trades cause them to become good members in the Commonwealth.

Secondly, in the execution of good Laws, which are already enough to punish idleness, but none of sufficient force to set idle people or youth on work.

Thirdly, too frequent pardons, which make many offend in hope. This preventing Justice is better then punishing Justice, as obedience is better then sacrifice, for in sacrifice we doe but repent of sin, but in obedience we prevent sin, and it is better preventing then repenting sin. And therefore worthy every mans consideration and endeavour to promote this preventing Justice according to such good Laws as are already in force.

F I N I S.

Ex. J. M.